

EXHIBIT 4

In the Matter Of:

HAMAMA, ET AL. vs ADDUCCI, ET AL.

JOHN AUGUSTIN SCHULTZ, JR.

July 12, 2018

Prepared for you by



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<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF MICHIGAN</p> <p>3 SOUTHERN DIVISION</p> <p>4 - - - - - x</p> <p>5 USAMA JAMIL HAMAMA, et al., :</p> <p>6 PETITIONERS AND :</p> <p>7 PLAINTIFFS, :</p> <p>8 v. : Case No.</p> <p>9 REBECCA ADDUCCI, et al., : 2:17-cv-11910</p> <p>10 DEFENDANTS AND :</p> <p>11 RESPONDENTS. :</p> <p>12 - - - - - x</p> <p>13</p> <p>14 Confidential deposition of JOHN AUGUSTIN SCHULTZ, JR.</p> <p>15 Washington, District of Columbia</p> <p>16 Thursday, July 12, 2018</p> <p>17 9:04 a.m.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Job No. 196902</p> <p>23 Pages: 1 - 241</p> <p>24 Reported By: Angela K. McCullough, RPR, Notary</p> <p>25 Public in and for the District of Columbia</p>	<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE PLAINTIFFS AND PETITIONERS:</p> <p>3 KIMBERLY L. SCOTT, ESQUIRE</p> <p>4 MILLER, CANFIELD, PADDOCK & STONE, PLC</p> <p>5 Cooperating Attorney, ACLU Fund of Michigan</p> <p>6 101 North Main Street, 7th Floor</p> <p>7 Ann Arbor, Michigan 48104</p> <p>8 (734) 668-7696</p> <p>9</p> <p>10 MARGO SCHLANGER, ESQUIRE</p> <p>11 Cooperating Attorney, ACLU Fund of Michigan</p> <p>12 625 South State Street</p> <p>13 Ann Arbor, Michigan 48109</p> <p>14 (734) 615-2618</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 Deposition of JOHN AUGUSTIN SCHULTZ, JR.,</p> <p>2 held at the offices of:</p> <p>3</p> <p>4</p> <p>5 U.S. DEPARTMENT OF JUSTICE</p> <p>6 450 5th Street, Northwest</p> <p>7 Washington, DC 20001</p> <p>8 (202) 307-4693</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 Pursuant to notice, before ANGELA K.</p> <p>14 MCCULLOUGH, RPR, Notary Public in and for the</p> <p>15 District of Columbia.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S C O N T I N U E D</p> <p>2 ON BEHALF OF THE RESPONDENTS:</p> <p>3 WILLIAM C. SILVIS, ESQUIRE</p> <p>4 U.S. DEPARTMENT OF JUSTICE</p> <p>5 950 Pennsylvania Avenue, NW</p> <p>6 Washington, DC 20530</p> <p>7 (202) 307-4693</p> <p>8</p> <p>9 ON BEHALF OF THE DEFENDANT ICE:</p> <p>10 KATHLEEN THACKER, ESQUIRE</p> <p>11 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT</p> <p>12 500 12th Street, Southwest</p> <p>13 Washington, DC 20536</p> <p>14 (202) 732-2427</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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			Page 5				Page 7
1	C O N T E N T S			1	P R O C E E D I N G S		
2	EXAMINATION OF JOHN AUGUSTIN SCHULTZ, JR.	PAGE		2	(The witness was sworn.)		
3	By Ms. Scott	7		3	MS. SCOTT: So I am Kimberly Scott from		
4	By Mr. Silvis	217		4	Miller Canfield on behalf of Petitioners.		
5	By Ms. Scott	231		5	MS. SCHLANGER: I'm Margo Schlanger, also		
6				6	on behalf of the Petitioners.		
7				7	MS. SCOTT: Could you -- could you put your		
8	E X H I B I T S			8	name on the record.		
9	(Exhibits attached to transcript)			9	MR. SILVIS: Do you want to --		
10	EXHIBIT NO.	PAGE		10	Oh, William Silvis, part of Department of		
11	Exhibit 1	6-12-18 declaration	10	11	Justice, for the respondents.		
12	Exhibit 2	11-30-17 declaration	32	12	MS. SCOTT: Could you put your name on the		
13	Exhibit 3	Letter	40	13	record.		
14	Exhibit 4	E-mail	85	14	MS. THACKER: I'm Kat Thacker,		
15	Exhibit 5	8-4-17 e-mail from Schultz	101	15	Kathleen Thacker, agency counsel for Immigration		
16	Exhibit 6	1-11-18 e-mail, Maldonado to		16	Customs Enforcement.		
17		Clinton	104	17	Whereupon,		
18	Exhibit 7	1-17-18 e-mail from Ochoa	104	18	JOHN AUGUSTIN SCHULTZ, JR.,		
19	Exhibit 8	E-mail from Schultz	116	19	called as a witness by counsel for Plaintiffs and		
20	Exhibit 9	Unidentified	124	20	Petitioners, and having been duly sworn by the		
21	Exhibit 10	Unidentified	130	21	Notary Public, was examined and testified as		
22	Exhibit 11	12-6-16 letter from		22	Follows:		
23		Al-Sahafi	144	23	EXAMINATION BY COUNSEL		
24	Exhibit 12	Unidentified	146	24	FOR PLAINTIFFS AND PETITIONERS		
25	Exhibit 13	6-7-17 letter	147	25	BY MS. SCOTT:		
			Page 6				Page 8
1	E X H I B I T S C O N T I N U E D			1	Q So, Mr. Schultz, have you been deposed		
2	EXHIBIT NO.	PAGE		2	before?		
3	Exhibit 14	1-9-18 e-mail from Bernacke	155	3	A No.		
4	Exhibit 15	E-mail	158	4	Q All right. I'm going to assume that your		
5	Exhibit 16	DHSHAMAMA000052	163	5	counsel has given you instructions about how the		
6	Exhibit 17	Unidentified	171	6	deposition works. We have scheduled, planned		
7	Exhibit 18	Letter	181	7	breaks, but I'm happy to take an unscheduled break		
8	Exhibit 19	E-mail	184	8	if you feel that you need it. I may need it.		
9	Exhibit 20	E-mail	186	9	Just let me know.		
10	Exhibit 21	E-mail chain	188	10	I am not familiar with the government or		
11	Exhibit 22	E-mail, Farmer to Schultz	190	11	your agency. So I am going to ask you a lot of		
12	Exhibit 23	E-mail chain	207	12	questions today that may seem very basic. And		
13	Exhibit 24	10-27-17 e-mail,		13	it's because I'm just trying to understand how the		
14		Bernacke to Schultz	215	14	organization works. So if I have misstated		
15				15	something or used the wrong acronym, please		
16				16	clarify for me.		
17				17	A Okay.		
18				18	Q Because I may not realize that I'm doing		
19				19	that.		
20				20	Similarly, if you don't understand one of		
21				21	my questions, please let me know. Otherwise, I		
22				22	will assume it's a clear question.		
23				23	And -- and unless you are told not to		
24				24	answer a question, Mr. Silvis may object, but then		
25				25	you can go ahead and answer after the objection.		

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<p style="text-align: right;">Page 33</p> <p>1 which is your declaration that was executed on 2 November 30th, 2017. 3 Do you recognize this document? 4 A Yeah. 5 Q Okay. If we go to paragraph 4, it says, 6 "Travel documents for many Iraqi nationals are now 7 being approved directly by Baghdad." 8 What do you mean by the use of "Baghdad"? 9 A I just mean the government for Iraq. 10 Q Is there a particular ministry or unit of 11 the Iraqi Government that you're referring to 12 here? 13 A So the -- no. There's an interministerial 14 ^ i found this inter-ministerial and inter 15 ministerial. Was this in a document? I want o 16 make sure i don't have it wrong committee 17 of different -- different ministries make it up. 18 And they work on the travel document or removal 19 issue. 20 Q Okay. So, in general, when there's 21 references to seeking approval from Baghdad, 22 you're -- the term "Baghdad" is referring to that 23 interministerial committee; is that correct? 24 A Yeah. To my knowledge, it's -- it's 25 correct. When we're -- when I say that we're</p>	<p style="text-align: right;">Page 35</p> <p>1 I forget his title. 2 Q Okay. N-a-z-i-r? 3 A Yeah. 4 Q Oh, Ms. Schlanger reminds me that 5 everybody has multiple names. 6 Do you know what his first name is, or the 7 other names that he uses? 8 A Unfortunately, I don't recall. But I can 9 tell you, if you Google it during the break, 10 Mr. Nizar, Iraq MFA, you'll be able to get his 11 information. 12 Q Is it your understanding that he has a 13 fairly high-level position within the Ministry of 14 Foreign Affairs? 15 A It's my understanding he has a high level. 16 Q And the Ministry of Foreign Affairs is 17 often referred to as MFA; is that correct? 18 A Mm-hmm. 19 Q And going forward, we'll use "MFA." 20 A Okay. 21 Q At what point -- what is your 22 understanding of when Mr. Nizar became the main 23 contact for obtaining travel documents? 24 A So it was just recent, within the last 25 three weeks or so, when I had made a determination</p>
<p style="text-align: right;">Page 34</p> <p>1 going to Baghdad, essentially, what -- what ICE is 2 doing is asking the Department of State at the US 3 Embassy in Baghdad to engage the government of 4 Iraq. 5 I personally don't know if they have one 6 point of contact in one single ministry who they 7 speak to who, then, discusses it amongst 8 themselves within the government of Iraq 9 bureaucracy. But we do -- do all our dealings 10 through the US Embassy in Baghdad. 11 Q So, if I understand you correctly, you 12 don't -- in general, you don't know who 13 specifically in the government of Iraq is being 14 asked to do the approvals in any given situation; 15 is that correct? 16 A At the time that I signed this, I just 17 knew it was the -- someone within the Iraq 18 Government. Recently, I've learned that there's 19 one point of contact who is the -- the main 20 conduit to getting the travel documents. And he's 21 the person who really gets everything going. 22 Q And who is that person? 23 A It's Mr. Nizar within the Iraqi 24 Government. He works within the Ministry of 25 Foreign Affairs. And I think it's N-a-z-i-r. And</p>	<p style="text-align: right;">Page 36</p> <p>1 to travel to Baghdad to discuss the travel 2 document procurement process. 3 I met with the deputy chief of mission at 4 the Iraq Embassy in Washington to determine whom I 5 should speak to. And they gave me the name of the 6 individual. 7 Q All right. So I'm going to put it -- a 8 more specific date to that meeting. 9 A Sure. 10 Q Would it have been during the week of 11 June 25th? 12 A If today is July 12th, it was most 13 likely -- yeah. I actually have my passport. I 14 can look at my -- 15 Q Can you take a look? 16 A I can look at my visa and see when it was 17 issued. 18 Q Thank you. 19 A I can tell you exactly when. 20 BY MS. SCHLANGER: 21 Q Oh, you actually have gone already? 22 A No. I didn't go to Iraq, but I did get 23 the visa. 24 (Witness complies.) 25 So this was issued -- so it was June 22nd.</p>

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<p style="text-align: right;">Page 37</p> <p>1 BY MS. SCOTT:</p> <p>2 Q Okay. So you were scheduled to -- to meet</p> <p>3 with Dr. Nizar; is that correct?</p> <p>4 A I was attempting to get a meeting</p> <p>5 scheduled, correct.</p> <p>6 Q And were you successful?</p> <p>7 A I was unsuccessful.</p> <p>8 Q Did you meet with anybody else to discuss</p> <p>9 the travel procurement document -- to procure</p> <p>10 travel documents?</p> <p>11 A I did not travel to Iraq.</p> <p>12 Q Did you meet with anybody in the US with</p> <p>13 the Iraqi Government to discuss travel documents?</p> <p>14 A Subsequent to June 22nd?</p> <p>15 Q Yes.</p> <p>16 A Yes.</p> <p>17 Q And who did you meet with?</p> <p>18 A I met with the Ambassador -- oh, what's</p> <p>19 his name -- Yasseen -- Ambassador Yasseen on</p> <p>20 July 2nd.</p> <p>21 Q And where was that meeting at?</p> <p>22 A The Iraq Embassy in Washington, DC.</p> <p>23 Q Okay. And what happened during that</p> <p>24 meeting?</p> <p>25 A So myself, members from my team,</p>	<p style="text-align: right;">Page 39</p> <p>1 Q Any other officials from the Iraqi</p> <p>2 Government?</p> <p>3 A No.</p> <p>4 Q And did -- when you say that you discussed</p> <p>5 a way forward, was there any agreement on a way</p> <p>6 forward?</p> <p>7 A Yes. To expedite the travel document</p> <p>8 issuance process, we -- we agreed that we would</p> <p>9 provide a cover letter for each presentation</p> <p>10 package, sort of, outlining the subject's criminal</p> <p>11 history, that they completed their criminal</p> <p>12 sentence, and that their -- their immigration case</p> <p>13 has been completed.</p> <p>14 Q Would that cover letter include any</p> <p>15 information about whether or not the Iraqi</p> <p>16 national desires to return to Iraq?</p> <p>17 A No.</p> <p>18 Q Did you guys discuss, at this meeting,</p> <p>19 whether or not Iraq will accept Iraqi nationals</p> <p>20 who do not desire to return to Iraq?</p> <p>21 A At that meeting, what was determined was</p> <p>22 if we have that cover letter, there's going to be</p> <p>23 no question regarding whether or not someone wants</p> <p>24 to return to Iraq.</p> <p>25 Q And who made that statement, that that</p>
<p style="text-align: right;">Page 38</p> <p>1 Department of State, the ambassador, the deputy</p> <p>2 chief of mission, and one other individual from</p> <p>3 the Iraq Government were there. And we discussed</p> <p>4 a way forward regarding travel documents, as we</p> <p>5 had identified some inefficiencies. And we made a</p> <p>6 determination on how we were going to proceed</p> <p>7 forward.</p> <p>8 Q Okay. So who on your team attended the</p> <p>9 meeting?</p> <p>10 A Myself, Michael Bernacke, James Maddox.</p> <p>11 Q Anybody else?</p> <p>12 A I don't believe so.</p> <p>13 Q And who from the Department of State</p> <p>14 attended the meeting?</p> <p>15 A Valerie Chittenden and Peter -- something</p> <p>16 with an H. He's the desk officer for Iraq.</p> <p>17 Q And then you said there was one other</p> <p>18 individual from Iraq.</p> <p>19 Do you remember his name?</p> <p>20 A So there was the DCM, who is Mohammed --</p> <p>21 his name is in one of these declarations.</p> <p>22 Mohammed Tarek? I don't know. But the -- and</p> <p>23 then Yarub something, he is the, like, third</p> <p>24 secretary. He's really Officer Maddox's conduit.</p> <p>25 It's his counterpart.</p>	<p style="text-align: right;">Page 40</p> <p>1 would be the policy?</p> <p>2 A The ambassador.</p> <p>3 Q Ambassador Yasseen?</p> <p>4 A Yes, ma'am.</p> <p>5 Q Did he put that in writing?</p> <p>6 A No. But, subsequent to the meeting, we</p> <p>7 submitted cover letters for individuals who had</p> <p>8 not voiced their desire to return. And we have</p> <p>9 since been notified that the travel documents will</p> <p>10 be issued this Friday.</p> <p>11 Q Okay. So let's put your declaration off</p> <p>12 to the side for a moment.</p> <p>13 I'm going to hand you -- I'm going to hand</p> <p>14 you a letter. It says on the bottom, "Respondents</p> <p>15 Exhibit No. 1." It was used during the last</p> <p>16 hearing with the Court. So I did not mark this;</p> <p>17 Nicole Murley did. So it is -- what appears on</p> <p>18 the document is it was handed to us.</p> <p>19 MS. SCOTT: But let's mark this as</p> <p>20 Exhibit 3.</p> <p>21 (Exhibit 3 was marked for identification.)</p> <p>22 THE WITNESS: Thank you.</p> <p>23 BY MS. SCOTT:</p> <p>24 Q Have you seen this letter before?</p> <p>25 A I have not seen this letter before.</p>

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<p style="text-align: right;">Page 41</p> <p>1 Q Okay. You'll notice that it's signed by 2 Michael Bernacke, who reports to you, correct? 3 A Mm-hmm. Correct. 4 Q You'll notice, on the back page, there are 5 the names of -- one, two, three, four, five -- 6 six Iraqi nationals. 7 A Right. 8 Q Are these the six Iraqi nationals that you 9 recently submitted a cover letter to the Iraqi 10 Government seeking travel documents? 11 A I -- I -- I don't know, to be honest with 12 you. 13 Q Okay. Do you know the names of the 14 individuals who you recently submitted the cover 15 letter to the Iraqi Government? 16 A No. So Michael signed that letter. OPLA 17 reviewed the letter. But I didn't look at the -- 18 the names of the people on the -- on the letter. 19 Q So do you know if those individuals that 20 are listed on the letter have signed any documents 21 indicating either that they do not desire to go 22 back to Iraq, or that they do desire to go back to 23 Iraq? 24 A It's my understanding that the six people 25 in the cover letter did not sign any documents</p>	<p style="text-align: right;">Page 43</p> <p>1 volunteering of an individual indicating that they 2 want to return to Iraq. 3 Q At the end of the day, though, Baghdad 4 still makes the decision of whether or not the 5 travel documents will be issued; is that correct? 6 A At the end of the day, yes. Absent an 7 individual saying -- going to the embassy and 8 saying they want to go back to Iraq, Baghdad makes 9 the determination regarding the travel document. 10 Q Okay. What else was discussed during the 11 July 2nd meeting? 12 A So we discussed that letter. The 13 ambassador requested that individuals with -- that 14 ICE focus on removal of individuals with 15 criminal -- criminal records. I advised him that, 16 you know, ICE does prioritize individuals based on 17 criminality. 18 But, of course, during regular operations, 19 if an individual is encountered who has a final 20 order of removal, an individual still -- who 21 doesn't have a criminal history, that individual 22 is still a priority within our current framework. 23 So it would be likely that person would be 24 arrested and -- when we request the travel 25 documents.</p>
<p style="text-align: right;">Page 42</p> <p>1 indicating that they wanted to return. 2 Q Mm-hmm. Did -- during your meeting on 3 July 2nd, did the Iraqi Government indicate what 4 type of travel documents would be issued for those 5 six individuals? 6 A No. 7 Q Did -- during the meeting, did the Iraqi 8 Government indicate whether they will, after these 9 initial six individuals, continue to issue travel 10 documents for individuals that desire not to go 11 back to Iraq? 12 A Yes. 13 Q And what was specifically said on that 14 front by the Iraqi Government? 15 A The ambassador understood that they have 16 an obligation to take back their nationals. 17 Q Mm-hmm. 18 A He believes that they're doing good work, 19 so far. And that, you know, with this cover 20 letter, they have that ability to ship that 21 information directly to Baghdad -- to their 22 counterparts in Baghdad who can make the 23 determination whether or not a travel document is 24 going to be issued. 25 And they can do that absent any</p>	<p style="text-align: right;">Page 44</p> <p>1 Q What is your understanding of why the 2 Iraqi Government wants to prioritize those 3 individuals with criminal records? 4 A I honestly don't know why they want to. 5 It's my belief that they feel as though people who 6 ICE is looking to remove who have criminal 7 histories were given an opportunity here in the 8 United States, and they didn't take advantage of 9 that opportunity. 10 And they understand that they're not only 11 immigration violators, but they're also criminal 12 violators. And so that's why they don't -- they 13 shouldn't remain. 14 Q Did -- was there any discussion about 15 repatriation of asylum seekers? 16 A They mentioned asylum. Oh, you know what, 17 we had someone from OPLA there, too, 18 Joan Lieberman. 19 Q Okay. Thank you. 20 A Sorry. You brought up asylum, and I 21 thought -- so they did bring up asylum. And, of 22 course, I brought OPLA with me so she could 23 discuss, you know, how we can't divulge any asylum 24 information, which the ambassador understood. He 25 already knew that.</p>

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<p style="text-align: right;">Page 45</p> <p>1 And, you know, of course, you know, she 2 had indicated that, you know, during the 3 immigration process, the -- you know, they can 4 claim asylum but -- or even subsequent to having 5 asylum and LPR, you know, we don't -- we don't 6 remove people who are -- you know, have LPR cards 7 or asylum. It's when the status is revoked. And 8 it's spoke in very general terms.</p> <p>9 Q Was there any discussion about whether or 10 not the removal of Iraqi nationals will take place 11 by charter flight or by commercial flights?</p> <p>12 A During that meeting, I don't recall any 13 discussion on the mechanism of removal.</p> <p>14 Q And is there a current understanding about 15 whether or not charter flights or commercial 16 flights will be used for removal of Iraqi 17 nationals?</p> <p>18 A Not at this time, to my knowledge. No.</p> <p>19 Q So there's no agreement with the Iraqi 20 Government to use a charter flight, currently?</p> <p>21 A Currently, ICE doesn't have a need for a 22 charter flight.</p> <p>23 Q Mm-hmm.</p> <p>24 A So we -- there's no need to -- to -- we 25 engage foreign governments regarding charter</p>	<p style="text-align: right;">Page 47</p> <p>1 remove the individuals who were on the April 2 flight.</p> <p>3 But subsequent to those actions, there was 4 the -- the Statement of Cooperation from the 5 Iraqis indicating that they would accept 1,400 6 individuals and that they would issue travel 7 documents. So we've migrated from that manifest 8 idea that never came to fruition because the 9 consular officers from Washington ended up issuing 10 travel documents for the April flight.</p> <p>11 Q So, for clarification, flight manifests 12 were never implemented as -- okay. Let me start 13 that over.</p> <p>14 I had been under the impression that -- 15 and, obviously, it's wrong now, but I want to 16 clarify that -- that, at one point, the Iraqi 17 Government would approve individuals for removal 18 based upon a flight manifest and didn't require 19 travel documents.</p> <p>20 That understanding is incorrect?</p> <p>21 MR. SILVIS: Object to the form of the 22 question.</p> <p>23 BY MS. SCOTT:</p> <p>24 Q You can go ahead and answer.</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 46</p> <p>1 flights when there's a need.</p> <p>2 Q Mm-hmm.</p> <p>3 A So, you know, it's cost prohibitive. ICE 4 is, you know, in a financial crunch. So, right 5 now, we're just not looking to do a charter 6 flight.</p> <p>7 Q Okay. Does that mean that Iraq won't 8 accept flight manifests in lieu of travel 9 documents for Iraqi nationals?</p> <p>10 A So that -- that is something that was in 11 place in -- where are we now? So that was going 12 to be used in the April 2017 flight. And that was 13 an idea that really started in November-December 14 2016, where we were cutting out the embassy, 15 engaging directly with Baghdad.</p> <p>16 And since we were cutting out the embassy 17 and dealing directly with Baghdad via our conduit, 18 the Department of State --</p> <p>19 Q Mm-hmm.</p> <p>20 A -- we had discussed the use of a manifest, 21 which is, essentially, a name list. You know, 22 John Schultz, date of birth, blah, blah, blah, 23 alien number, criminal history.</p> <p>24 Q Mm-hmm.</p> <p>25 A And that's what we were going to use to</p>	<p style="text-align: right;">Page 48</p> <p>1 No. That's correct.</p> <p>2 Q Mm-hmm.</p> <p>3 A At one point, Iraq was going to accept a 4 charter flight with a manifest.</p> <p>5 Q Without travel documents?</p> <p>6 A Without travel documents having been 7 issued. But, ultimately, it didn't occur because 8 the embassy issued the travel documents for the 9 individuals who were going to be removed with only 10 the manifest.</p> <p>11 Q Okay. And that was for the April 2017 12 flight, correct?</p> <p>13 A Correct.</p> <p>14 Q The individuals that were on the 15 April 2017 flight, did they indicate to the Iraqi 16 Government whether they desired to be removed to 17 Iraq?</p> <p>18 A I do not know.</p> <p>19 Q Do you know if they -- do you know if they 20 were interviewed by Iraq before their flights?</p> <p>21 A Yes, they were.</p> <p>22 Q Do you know if each of those individuals 23 on the April 2017 flight had current passports?</p> <p>24 A Valid passports?</p> <p>25 Q Current, valid passports, yes.</p>

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<p style="text-align: right;">Page 57</p> <p>1 Q Had Mr. Nizar or his staff indicated to 2 you that they would be willing to meet with you? 3 A I didn't have any direct communication 4 with Mr. Nizar. 5 Excuse me. 6 Again, the Iraq Embassy here, in 7 Washington, supported the trip and was 8 communicating with Mr. Nizar's staff regarding my 9 travel. There was no -- no clear sense that 10 Mr. Nizar was going to be available to meet. But, 11 again, I was trying to get -- to meet -- if I 12 couldn't meet the decision-maker, meet someone, 13 you know, who worked immediately under him to 14 relay the message of the importance of the travel 15 documents being issued timely. 16 Q Are you still trying to arrange a meeting 17 with Mr. Nizar to talk about travel documents? 18 A So I intend to travel to Iraq in the 19 future to talk to Ministry officials regarding 20 travel document issues. 21 Q Has a date between set for that meeting? 22 A A date has not been set yet. 23 Q Do you have -- do you know who you will be 24 meeting if -- once you do set the date? 25 A So the intent would be that myself and</p>	<p style="text-align: right;">Page 59</p> <p>1 telephone exchange with the DCM. 2 And, additionally, I was there on 3 June 22nd. And I saw Yarub when I got the visa. 4 Q Okay. So let me back up here. All right. 5 Did you have any meetings with Iraqi 6 officials in March of 2018? 7 A I'm sorry. I don't recall. I don't have 8 my calendar in front of me. My portfolio covers 9 140 countries. So unless there's something super 10 significant going on that stands out to me, it's 11 just another day in the office. So -- 12 Q Okay. So then in April 2018, did you have 13 a meeting with the Iraqi Government? 14 A I -- I don't know. 15 Q Do you remember any calls with Iraqi 16 Government officials in April 2018? 17 A You know, I -- I met with them once. Me, 18 Mike, and James went over there. I don't recall 19 if it was March or April. It -- it was me, Mike, 20 James, and Robert Tremont. I can't recall if it 21 was March or April. But we did go over, and we 22 met with them and handed them -- I think it was, 23 like, a stack of travel document presentations. 24 And they had indicated to us that they were going 25 to issue a number of travel documents for -- for</p>
<p style="text-align: right;">Page 58</p> <p>1 Assistant Director Pineiro travel to Baghdad 2 and -- to meet with Mr. Nizar regarding the travel 3 document issuance process. 4 Q Do you have a time frame within which that 5 meeting will take place? 6 A Ideally, it would take place within the 7 next -- July 13th -- seven weeks. 8 Q All right. So what I'm going to do is 9 walk backwards from the July 2nd meeting to ask 10 you about other meetings you've had with officials 11 from Iraq about repatriation of Iraqi nationals. 12 So prior to the July 2nd, when did you 13 meet with Iraqi nationals? 14 Let me rephrase that. 15 So was there a meeting -- let me -- let's 16 do it this way: Between March 18th and July 2nd, 17 was there a meeting -- did you have a meeting with 18 Iraqi Government officials about repatriating 19 Iraqi nationals? 20 A Yes. In May, we met with the Iraqis. It 21 was myself, Agent Pineiro, Jim Maddox, met with 22 the Iraqis. I think it was the first week of May. 23 I don't recall meeting with them in April. But, 24 subsequent to the May meeting, we had the July 25 meeting, but I did have e-mail exchange and</p>	<p style="text-align: right;">Page 60</p> <p>1 individuals that had been previously presented. 2 Q And did they issue the travel documents? 3 A Mm-hmm. Yeah. 4 Q And how many did they issue? 5 A You're challenging me. 6 I don't -- I don't recall the number, but 7 I know it was greater than 14. We did -- we did a 8 small charter, eight-person charter, and then we 9 did commercial removals after that. 10 Q When did you do the commercial charter? 11 A It was -- 12 Q I mean -- hold on. 13 When did you do the commercial removals? 14 A The commercial removals? 15 Q Yeah. 16 A I don't know. 17 Q When did you do the charter flight? 18 A Pretty certain I went in June of this 19 year, June 2018. 20 Q And how many individuals were on that 21 flight? 22 A It should've been eight. 23 Q Eight. Who is Robert Tremont? 24 A There were seven people on the charter 25 because one person didn't get to the staging</p>

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<p style="text-align: right;">Page 65</p> <p>1 a lot of meetings with the foreign governments.</p> <p>2 So, in June, like I said, I met with Yarub</p> <p>3 in -- you know, June 22nd. But that was really</p> <p>4 only to get a visa. Because it was a Friday. I</p> <p>5 was in jeans. I had no intention of meeting with</p> <p>6 them.</p> <p>7 But, you know, other than that, it was --</p> <p>8 like I mentioned, it was e-mail and phone</p> <p>9 communication with the -- with the DCM. He's</p> <p>10 really my -- my equivalent at the embassy.</p> <p>11 Q And, for clarification, that's Mohammed?</p> <p>12 A Yes, Mohammed. So he's -- he's typically</p> <p>13 the person I, you know, contact when I need</p> <p>14 something.</p> <p>15 Q How many calls did you have with Mohammed</p> <p>16 during June 2018?</p> <p>17 A Maybe -- less than ten.</p> <p>18 Q Okay.</p> <p>19 A I wanted to say five. But let's say less</p> <p>20 than ten.</p> <p>21 Q During any of those calls, did you discuss</p> <p>22 the issue of Iraq issuing travel documents for</p> <p>23 nationals who indicated they did not desire to go</p> <p>24 back to Iraq?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 67</p> <p>1 documents that you can look at?"</p> <p>2 A I don't have any documents here on hand.</p> <p>3 You know, there's certainly a lot of communication</p> <p>4 dealing with Iraq within the last, you know, two</p> <p>5 years. And I think the time frame you had</p> <p>6 mentioned is the last year. So I just didn't want</p> <p>7 to misspeak.</p> <p>8 It's always been my understanding in</p> <p>9 dealing with the -- the Iraq Embassy here since --</p> <p>10 since -- so it's been my understanding that they</p> <p>11 won't deny individuals who don't want to return,</p> <p>12 but they will not issue on; in that, they defer to</p> <p>13 their headquarters, very similar to our field</p> <p>14 office directors, who often won't release somebody</p> <p>15 from custody and will refer the cases up to</p> <p>16 headquarters for my unit to do so.</p> <p>17 So it's my understanding and my belief</p> <p>18 that the embassy often doesn't want to be seen as</p> <p>19 assisting the US Government too much in the</p> <p>20 removal aspect.</p> <p>21 Q Okay. I'm going to be tenacious here. So</p> <p>22 I'm going to go back to the question about</p> <p>23 Baghdad. Okay?</p> <p>24 Have you -- or do you know of any instance</p> <p>25 in which Baghdad has affirmed that they will not</p>
<p style="text-align: right;">Page 66</p> <p>1 Q And what did you discuss with him?</p> <p>2 A I indicated that willingness to return to</p> <p>3 an individual's country has no bearing on their</p> <p>4 removal.</p> <p>5 Q And what was his response back?</p> <p>6 A I don't know -- exactly recall, you know,</p> <p>7 word for word, verbatim. But, again, he indicated</p> <p>8 that they don't have the authority to issue travel</p> <p>9 documents for those who -- who haven't</p> <p>10 volunteered, that it's got to go through Baghdad,</p> <p>11 and that we have to, you know, continue to push</p> <p>12 Baghdad to get the travel documents to be issued.</p> <p>13 Q Did he indicate to you Baghdad's position</p> <p>14 on whether or not travel documents would be issued</p> <p>15 for Iraqi nationals who have not indicated they</p> <p>16 desire to return to Iraq?</p> <p>17 A No.</p> <p>18 Q At any point since June 1, 2017, has</p> <p>19 Baghdad indicated what its policy is about</p> <p>20 accepting Iraqi nationals who desire not to return</p> <p>21 to Iraq?</p> <p>22 A Not that I recall.</p> <p>23 Q Is there any documents that you could look</p> <p>24 at to refresh your memory?</p> <p>25 Can you change that to "Are there any</p>	<p style="text-align: right;">Page 68</p> <p>1 accept Iraqi nationals who have not clearly</p> <p>2 indicated that they desire to return to Iraq?</p> <p>3 A No. As -- as a matter of fact, the six</p> <p>4 individuals who didn't volunteer to return to Iraq</p> <p>5 are going to be issued travel documents tomorrow</p> <p>6 on orders from Baghdad. So that's a clear</p> <p>7 indication to me that irregardless of whether</p> <p>8 someone wants to return to Iraq, the government of</p> <p>9 Iraq is going to do their international obligation</p> <p>10 and issue travel documents for individuals who</p> <p>11 have been ordered removed from the United States.</p> <p>12 Q Okay. Other than the anticipated</p> <p>13 documents that you're expecting to receive</p> <p>14 tomorrow, has Baghdad ever indicated that they</p> <p>15 would accept Iraqi nationals who have indicated</p> <p>16 they do not desire to return to Iraq?</p> <p>17 A I would have to go through all the cases</p> <p>18 who have been issued travel documents to see who</p> <p>19 didn't, you know, affirmatively state that they</p> <p>20 want to go back to Iraq.</p> <p>21 It's my impression and my understanding</p> <p>22 that the individuals from the April charter</p> <p>23 weren't necessarily the individuals who</p> <p>24 volunteered to return.</p> <p>25 Q But -- but you don't know for certain if</p>

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<p style="text-align: right;">Page 77</p> <p>1 they're not state-owned enterprises. They're 2 for-profit businesses. They captain has got the 3 final say. So we can't just say, "We're the 4 Federal Government; we're putting him on." 5 So the -- that leaves us with -- the only 6 alternative is either try again -- and he'll 7 probably do the same thing -- or do a charter 8 flight. 9 Another -- another reason why we would do 10 a charter flight is if the numbers make sense. So 11 we have daily charters to Honduras and Guatemala 12 and El Salvador, and monthly charters to Ecuador, 13 Jamaica, Haiti, et cetera. So, if the numbers 14 make sense. 15 And then, every now and then, a country 16 just wants a charter. They say, "Hey, you know 17 what, it's easier for us to get everybody who is 18 involved in, you know, handling removals to the 19 airport at the same time. So let's have all the 20 aliens come on a charter flight." 21 So those are, really, the three reasons 22 why we do that. 23 So, you know, charter flights, they're 24 fully operational. Trust me. We got a number of 25 charter flights scheduled for the summer. But,</p>	<p style="text-align: right;">Page 79</p> <p>1 A I guess it's either way, right? It -- you 2 know, ICE -- I was speaking for the collective 3 organization. You know, I expect. My unit chief 4 expects. My DDO expects. 5 For me, I don't see a difference between 6 "ICE expects" or "I expect." I mean, I'm signing 7 this. So when I say "ICE expects," me signing it 8 is the same thing as saying "I expect." Maybe 9 it's just a nuancing in words. I don't -- 10 Q Okay. And this declaration was signed in 11 November of 2017. 12 What was the basis for the statement that 13 ICE expects to receive travel documents? 14 A So it was our understanding from the 15 Statement of Cooperation from the Iraqis, that 16 they would -- they would accept the return of the 17 final orders -- final orders -- they would accept 18 the return of the 1,400 Iraqi nationals who got 19 final orders of removal in the United States. And 20 subsequent to the litigation -- or absent the 21 litigation, the individuals would be removed. 22 So what I'm -- what I'm saying there is 23 that those who were excluding themselves from the 24 lawsuit, we fully expect that we're going to get 25 travel documents based on the Statement of</p>
<p style="text-align: right;">Page 78</p> <p>1 you know, ideally, in the perfect world, it would 2 be much easier just to go commercial. 3 Q So it's possible, in the future, you could 4 be using charter flights to provide Iraqi national 5 removal? 6 A Yes. 7 Q Okay. So prior to -- to May 2018, what 8 was Iraq's status? You know, it's now 9 cooperative. Was it cooperative on May 2017? 10 A I'm pretty certain it was. I can look 11 during lunch and let you know. But I -- I don't 12 recall off the top of my head. 13 Q Okay. Okay. What is the fiscal year for 14 ICE? 15 A It's October 1 to September 30th. 16 Q All right. Let's go back to 17 Exhibit No. 2. 18 (Exhibit 2 was referenced.) 19 BY MS. SCOTT: 20 Q And let's look at paragraph 7. 21 And the third sentence says, "ICE expects 22 to receive travel documents for all individuals 23 that ICE has requested to remove to Iraq." 24 Why did you say "ICE expects" versus "I 25 expect"?</p>	<p style="text-align: right;">Page 80</p> <p>1 Cooperation. 2 Q And what is the Statement of Cooperation 3 that you're referring to? 4 A So it's, essentially -- we had gotten 5 notification that -- in March 2017, that the 6 Iraqis had indicated that they were ready to put 7 in place this interministerial committee 8 deportation to issue travel documents to the -- to 9 issue travel documents or accept removal of? I 10 believe it's to issue travel documents of the 11 Iraqi nationals within 30 days of request. And it 12 was for the 1,400. 13 And so, from that, we had -- we had the 14 understanding, or the belief, that all was going 15 to -- that they were going to, you know, cooperate 16 and -- and do their international obligation. 17 Q Did the Statement of Cooperation address 18 those Iraqi nationals who would indicate that they 19 desired not to remove -- be removed to Iraq? 20 A I don't recall that as being one of the 21 pillars of the Statement of Cooperation. 22 Q It was -- was the Statement of Cooperation 23 silent on that front? 24 A Yeah, I think so. 25 Q All right. Okay. Okay. Going to</p>

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<p style="text-align: right;">Page 85</p> <p>1 determination.</p> <p>2 Q Okay. All right. So you can put that one</p> <p>3 off to the side.</p> <p>4 Okay. All right.</p> <p>5 MS. SCOTT: I'm going to mark this as</p> <p>6 Exhibit 4.</p> <p>7 (Exhibit 4 was marked for identification.)</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY MS. SCOTT:</p> <p>10 Q Do you recognize this document?</p> <p>11 A Yes.</p> <p>12 Q And what is it?</p> <p>13 A It's an e-mail going out to the -- the</p> <p>14 attaches -- the ICE personnel deployed overseas.</p> <p>15 Q And what is it pertaining to?</p> <p>16 A The latest Removal Cooperation Initiative</p> <p>17 run.</p> <p>18 Q And this is -- this -- we were talking</p> <p>19 earlier about a cooperative country. This is the</p> <p>20 analysis you were talking about?</p> <p>21 A Yeah.</p> <p>22 Q Okay. Let's turn to the second page.</p> <p>23 That's marked ICE0271048. And, if you go down to</p> <p>24 the paragraph that starts "Although," do you see</p> <p>25 that?</p>	<p style="text-align: right;">Page 87</p> <p>1 communities after 180 days if there is no</p> <p>2 significant likelihood of removal in the</p> <p>3 reasonably foreseeable future."</p> <p>4 Today, is the 180-day mark still the</p> <p>5 benchmark for determining SLRRFF?</p> <p>6 A Yes.</p> <p>7 Q Have there been any Iraqi nationals since</p> <p>8 2017 that have hit their 180 days that have been</p> <p>9 released because SLRRFF does not exist?</p> <p>10 A I'm sorry. Since when?</p> <p>11 Q Since January 2017.</p> <p>12 A Since January 2017. I would say yes.</p> <p>13 Q Do you know how many?</p> <p>14 A I do not.</p> <p>15 Q Do you know -- okay. Can you give me a</p> <p>16 roundabout figure? And it's fine to say no. But</p> <p>17 I'm going to keep pushing, just to see if it</p> <p>18 triggers your memory.</p> <p>19 A No. No. Unfortunately. I wish I could</p> <p>20 give you the answer. I'm not trying to be</p> <p>21 difficult.</p> <p>22 I don't know. January 2017 feels like an</p> <p>23 eternity, long ago, right? But I would say -- I</p> <p>24 don't have a number for you. But -- I don't.</p> <p>25 Sorry.</p>
<p style="text-align: right;">Page 86</p> <p>1 A Yes.</p> <p>2 Q And it says, "Although the United States</p> <p>3 can extend detention in certain cases, we cannot</p> <p>4 detain aliens who have not been repatriated to the</p> <p>5 country of nationality or citizenship because the</p> <p>6 country will not accept their return."</p> <p>7 Under what circumstances can detention be</p> <p>8 extended?</p> <p>9 A So if the officer can -- officer -- if ICE</p> <p>10 can articulate that they're SLRRFF, then detention</p> <p>11 can be extended. If someone is a mental health</p> <p>12 threat, we can -- we can continue detention based</p> <p>13 on a 241.13. If -- if someone is deemed to be</p> <p>14 a -- like, a terrorist, the Secretary, in</p> <p>15 conjunction with the -- Secretary of Homeland</p> <p>16 Security, in conjunction with the director of the</p> <p>17 FBI -- well, in -- with advice from the director</p> <p>18 of the FBI, can maintain custody of an individual.</p> <p>19 Q Any other situations?</p> <p>20 A Those are, like, the real three ones.</p> <p>21 Q All right. Then it says, "Under the US</p> <p>22 Supreme Court decision in Zadvydas v Davis" -- and</p> <p>23 it gives the case number -- "when countries refuse</p> <p>24 or delay the repatriation of their nationals, ICE,</p> <p>25 generally, is required to release aliens into US</p>	<p style="text-align: right;">Page 88</p> <p>1 Q Okay. That's fine. No. That's fine.</p> <p>2 So several of the Hamama class members have</p> <p>3 been in detention longer than 180 days, correct?</p> <p>4 A Mm-hmm.</p> <p>5 Q Has there been a SLRRFF analysis for those</p> <p>6 detainees?</p> <p>7 A So my officers have done -- I know they've</p> <p>8 done case reviews on -- on the Hamama class.</p> <p>9 And just so you know the mechanism of how</p> <p>10 this works, I just want to back it up a little</p> <p>11 bit.</p> <p>12 Q So answer my question first, and then I</p> <p>13 will give you time to provide that --</p> <p>14 that process.</p> <p>15 A Okay. So, yes. The answer is yes.</p> <p>16 Q Do you know how many?</p> <p>17 A How many --</p> <p>18 Q How many --</p> <p>19 A -- aliens have had their cases reviewed?</p> <p>20 Q Yes.</p> <p>21 A That, I do not.</p> <p>22 Q All right. So go ahead and give us the</p> <p>23 process that --</p> <p>24 A So I just want to lay the foundation of</p> <p>25 why I can't answer you -- give you a granular</p>

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<p style="text-align: right;">Page 89</p> <p>1 answer, right?</p> <p>2 So my -- the officers, the DDOs, detention</p> <p>3 and deportation officers, do the review. If the</p> <p>4 review is to continue detention, it goes to the</p> <p>5 unit chief. The unit chief reviews it, gives it</p> <p>6 back to the officer.</p> <p>7 Q Can I stop you right there?</p> <p>8 A Yes.</p> <p>9 Q And who would be the unit chief?</p> <p>10 A Michael Bernacke. It never comes to my</p> <p>11 desk.</p> <p>12 And then on the flip side is, if an alien</p> <p>13 is to be released, the detention and deportation</p> <p>14 officer reviews the case. It goes to</p> <p>15 Michael Bernacke, the unit chief. It comes to</p> <p>16 John Schultz, the deputy assistant director, who</p> <p>17 then writes an e-mail to the assistant director</p> <p>18 saying, "Hey, I intend to release this guy because</p> <p>19 of this."</p> <p>20 And so I don't have -- I don't have</p> <p>21 very -- I don't have visibility on people who are</p> <p>22 in continued detention.</p> <p>23 Q Okay. You have visibility into those that</p> <p>24 you recommend to be released?</p> <p>25 A For release.</p>	<p style="text-align: right;">Page 91</p> <p>1 been listening very clearly the first time around.</p> <p>2 A I'm sorry.</p> <p>3 Q No. Don't you apologize. That was my</p> <p>4 fault.</p> <p>5 All right. So let's go into the page that</p> <p>6 refers to Iraq, which is Bates numbered 271055.</p> <p>7 A Mm-hmm.</p> <p>8 Q All right. So then this is as of</p> <p>9 February 2017. It -- it discusses a démarche --</p> <p>10 am I saying that correctly?</p> <p>11 A Yes.</p> <p>12 Q -- issued on July 27th, 2011, and</p> <p>13 March 31st, 2015.</p> <p>14 What is a démarche?</p> <p>15 A So a démarche is, like, an official</p> <p>16 communication between one country and another.</p> <p>17 So, according to the Department of State, a</p> <p>18 démarche can be either verbal or written.</p> <p>19 Q Mm-hmm.</p> <p>20 A It's basically anytime you may admonish</p> <p>21 them for something or request something, or</p> <p>22 request something strongly, you know. So, you</p> <p>23 know, a démarche -- like, I don't know what it</p> <p>24 said in March 2015 or July 2011. But a typical</p> <p>25 démarche today, they're all -- it's boilerplate.</p>
<p style="text-align: right;">Page 90</p> <p>1 Q Do you have visibility into knowing if</p> <p>2 those that you've recommended have been released?</p> <p>3 A Those who have been recommended for</p> <p>4 release -- I don't go back and check the system.</p> <p>5 I just assume the officers are doing their job and</p> <p>6 notifying the field to release them from custody.</p> <p>7 Q Okay. So let me be -- I'm not clear about</p> <p>8 what you're saying.</p> <p>9 So if you make the recommendation, that is</p> <p>10 the decision to release; is that correct?</p> <p>11 A Well -- so the officer makes the</p> <p>12 recommendation. The unit chief concurs. It comes</p> <p>13 to me. I, essentially, go to my ADD the same way</p> <p>14 the unit comes to me, and I say, "This guy --</p> <p>15 we -- we've got to release him. You know, here</p> <p>16 are the particulars in the case."</p> <p>17 She'll say yes, concur, or she may say,</p> <p>18 "Oh, wait a minute. I think you missed something</p> <p>19 here. What about this?"</p> <p>20 And then once we get the concur</p> <p>21 notification -- concur on the release, I tell the</p> <p>22 unit -- Mike, the unit chief, Bernacke, go ahead</p> <p>23 and release. And then -- and then the officer</p> <p>24 cuts a release letter, notifies the field.</p> <p>25 Q All right. So I think I might not have</p>	<p style="text-align: right;">Page 92</p> <p>1 Or, you know, it discusses the importance of</p> <p>2 removal; the -- you know, the EO, executive</p> <p>3 order --</p> <p>4 Q Mm-hmm.</p> <p>5 A -- you know, what the current condition of</p> <p>6 the country's cooperation is; you know, possibly</p> <p>7 visa sanctions.</p> <p>8 And then, like, what ICE has asked is, "We</p> <p>9 ask that you immediately issue travel documents to</p> <p>10 these ten people who are detained. And, in</p> <p>11 addition to that, identify a repeatable process</p> <p>12 within the next 30 days to handle all the</p> <p>13 non-detainees."</p> <p>14 Something to that effect.</p> <p>15 Q Okay. Has a démarche been issued to Iraq</p> <p>16 since January of 2017?</p> <p>17 A So the -- the démarche definition is --</p> <p>18 like I said, it's verbal. It could be verbal, or</p> <p>19 it could be written.</p> <p>20 So State Department may consider the</p> <p>21 July 2nd meeting a démarche. I wouldn't have</p> <p>22 considered it a démarche because I felt like it</p> <p>23 was just more of a -- just engagement, right?</p> <p>24 Q Mm-hmm.</p> <p>25 A There -- I just -- we did a dip note. We</p>

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<p style="text-align: right;">Page 93</p> <p>1 did a dip note, which is different than a 2 démarche, which is also an official communication 3 between one country and another, you know, just 4 two weeks ago. 5 Q Okay. So let me -- let me slow you down 6 there a second. Okay? 7 "Dip note" means diplomatic note? 8 A Mm-hmm. 9 Q Okay. And compared to a démarche, is it 10 less of an admonishment? 11 A For me, a non-State employee, I think 12 they're relatively the same. 13 Q Okay. Okay. And what did the dip note 14 from two weeks ago say? 15 A It was, essentially, asking for the 16 issuance of the travel documents for the six 17 individuals. 18 Q Was the -- 19 A So the -- so the dip -- so -- 20 I apologize. Sorry. I'm sorry. 21 Q That's okay. 22 Was the dip note issued prior to the 23 July 2nd meeting? 24 A Yes, ma'am. 25 Q Did the July 2nd meeting result -- was the</p>	<p style="text-align: right;">Page 95</p> <p>1 cabled that over to -- to the Iraqis. I forget on 2 which date. But, essentially, it was asking for, 3 you know, the issuance of the travel documents for 4 the six individuals. 5 Q Was there any discussion in that dip note 6 about sanctions or any warnings about sanctions? 7 A Without seeing it now, I don't -- I don't 8 know. Sorry. 9 Q That's okay. 10 So I think I -- one of my earlier 11 questions was the diplomatic note was issued 12 because you didn't -- weren't able to have the 13 meeting with Mr. Nizar. 14 A Yes. 15 Q Correct? I think I misstated the name 16 earlier. But I think we all understood who I was 17 talking about, correct? 18 A Yes. 19 Q All right. 20 MS. SCOTT: We only have another 45 minutes 21 before lunch. So I'm getting exhausted, for the 22 record. 23 MS. SCHLANGER: You had set lunch for 24 11:45. 25 MS. SCOTT: Oh, so we only have a half an</p>
<p style="text-align: right;">Page 94</p> <p>1 result of a dip note, do you believe? 2 A No, I don't believe so. 3 Q Was the July 2nd meeting scheduled before 4 the dip note went out? 5 A No. 6 Q Okay. So what did the dip note say, 7 specifically? 8 A The -- the dip note was, basically, in 9 lieu of my meeting. So since I -- I didn't have 10 the opportunity to go over, we sent a -- 11 Q So let me slow you down a second. I don't 12 mean to interrupt you. 13 So when you talk about the "meeting," that 14 was the meeting you were planning to have with 15 Mr. Nizar? 16 A (No verbal response.) 17 Q Okay. Go ahead. 18 A So -- so -- yeah. So since I couldn't get 19 the -- that trip to Baghdad on June 25th to meet 20 with the Ministry of Foreign Affairs, I worked 21 with the Department of State Consular Affairs 22 Bureau here in Washington to draft a diplomatic 23 note; essentially, putting on paper what I -- you 24 know, what the intent of the meeting was. 25 And so that turned out to be a -- they</p>	<p style="text-align: right;">Page 96</p> <p>1 hour, almost. So -- 2 MS. SCHLANGER: You should do what you 3 want. 4 MS. SCOTT: Yeah. Okay. 5 BY MS. SCOTT: 6 Q All right. So I had asked you if there 7 had been any diplomatic notes issued since 8 January 2017, and you responded, "There was one 9 two weeks ago." 10 Were there any others? 11 A I think you asked me if there were any 12 other démarches, but -- 13 Q Okay. So that -- fair enough. 14 Were there any other démarches since 15 January 2017? 16 A I believe so. We have a démarche tracker, 17 you know, at the office, you know, on SharePoint. 18 I don't track them in my head. I -- I don't -- 19 Q You just don't recollect at this point? 20 A Yeah. But I'm pretty certain there was 21 one. 22 Q So let me ask the question about 23 diplomatic notes. 24 Have there been any other diplomatic notes 25 issued since January of 2017?</p>

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<p style="text-align: right;">Page 97</p> <p>1 A I would say the same. I would say it's -- 2 it's likely, but I am not 100 percent certain that 3 there has been. 4 Q Is there a tracker of diplomatic notes 5 that were issued? 6 A As I mentioned, sometimes there's a gray 7 area, at least in the non-State side, on dip notes 8 and démarches. So they do sometimes filter into 9 the démarche tracker. 10 Q Okay. All right. So let's go back to 11 this document. 12 A Sure. 13 Q So the -- Iraq is listed -- if you go back 14 to 271049, the header says, "Removal Cooperation 15 Initiative (RCI) Uncooperative Countries' Status 16 of Efforts as of February 15, 2017." 17 So as of that time, Iraq was identified as 18 an uncooperative country, correct? 19 A Right. 20 Q Today, it's identified as a cooperative 21 country? 22 A Right. 23 Q Are there any specific activities or 24 conduct or statements from Iraq that transferred 25 them from uncooperative to cooperative?</p>	<p style="text-align: right;">Page 99</p> <p>1 documents. Yes, they interview. Yes, it meets 2 ICE's needs." 3 They get 100 percent on that variable. 4 Then charters. "Well, they did the April 5 charter. They took everybody." 6 Yes. That's 100 percent. Right there, 7 that's 50 points, right? 8 Q Mm-hmm. 9 A Then you get -- you get -- then you add in 10 the March Statement of Cooperation, where they 11 say, "We're going to take back everybody." 12 So then, you know, ICE is working to get 13 these individuals, you know, teed up for travel 14 documents and everything else. 15 So then since we have what we -- what we 16 interpret as SLRRFF, based on their -- their 17 statement that they're going to issue travel 18 documents on these 1,400, the -- your ratio of 19 releases to returns goes down, right? And so, 20 then, that scores goes up. So you've got already 21 two variables at 100, which gives you 50, you 22 know, because they're equally weighted. This -- 23 this -- the ratio goes down. So that's going to 24 give you more points. 25 All you have to do is get above a 70, and</p>
<p style="text-align: right;">Page 98</p> <p>1 A So with that Statement of Cooperation in 2 March of 2017, where they said they would take 3 their individuals back, we also had that -- the 4 April charter. 5 And then, without seeing the data in front 6 of me -- you know, when -- so the -- just to 7 explain the RCI and the score a little bit -- so 8 the Iraqis said they would interview, right? They 9 went. They interviewed. They issued documents 10 for all that they interviewed. 11 So there's four variables, as I mentioned 12 before. So they'd get 100 percent on that one, 13 right? 14 Q For clarification -- 15 A Yes, ma'am. 16 Q -- are you talking about the eight from 17 April 2017? 18 A Yes. 19 Q Okay. 20 A So they would get 100 percent there. 21 Like, so, on the next -- you know, so 22 we -- we do the RCI run twice a fiscal year. 23 Q Mm-hmm. 24 A So at the next run, the data set would be, 25 "Well, Iraq did interviews. They issued all the</p>	<p style="text-align: right;">Page 100</p> <p>1 you're cooperative. So they're already almost 2 there. And I don't know what that -- the final 3 order to removal time frame is. 4 Q Mm-hmm. 5 A But, you know, just depending on it, like, 6 you could've easily seen the -- the numbers 7 reduce. And I -- without the data in front of me, 8 I can't say that's exactly what happened. But 9 that's -- that's a possibility. 10 Q Okay. So -- I mean, I asked you earlier 11 about démarches, not realizing that this document 12 actually says that you had issued a démarche in 13 early -- at some point before February 2017. 14 Do you remember what that démarche was 15 about? 16 A I don't. 17 Q Okay. And then the next bullet point 18 mentions that there's been 21 cases submitted to 19 Baghdad. 20 I'm assuming that means for travel 21 documents, correct? 22 A That's correct. 23 Q Did Baghdad issue travel documents for 24 those 21 cases? 25 A Not to my knowledge.</p>

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<p style="text-align: right;">Page 113</p> <p>1 have the ability to look at a case almost like a 2 consular officer from that foreign country, and 3 say whether or not they really believe, you know, 4 a travel document is going to be issued. And 5 they're the ones that have that personal knowledge 6 of the country. They use their experience with 7 the information provided within the travel 8 document presentation to make -- to make that 9 SLRRFF determination.</p> <p>10 You know, the consulate of Iraq in LA, the 11 field may have just submitted the request. 12 "Unknown," that means maybe they never called them 13 back. Nothing ever happened, right?</p> <p>14 For me, if -- if I'm the DDO, this line 15 here means absolutely nothing to me.</p> <p>16 Q Okay. So are there certain specific 17 entries that are supposed to be put into this 18 field?</p> <p>19 A Helpful entries.</p> <p>20 Q So it's -- so it's a wide range?</p> <p>21 A Right.</p> <p>22 Q It's not a "Select this number" or "Select 23 this word"?</p> <p>24 A No.</p> <p>25 Q Okay. So let's look at Exhibit 7.</p>	<p style="text-align: right;">Page 115</p> <p>1 AFTERNOON SESSION 2 (12:49 p.m.)^ is 3 this how you want the time place, or centered or 4 something else lo</p> <p>5 EXAMINATION BY COUNSEL 6 FOR PETITIONERS (RESUMED)</p> <p>7 BY MS. SCOTT: 8 Q All right. Mr. Schultz, you've been 9 talking about a gentleman by the name of Nizar -- 10 Nizar. I believe that's his first name. 11 Do you now have his complete name?</p> <p>12 A Yes. I believe the individual who I was 13 going to -- who I was attempting to meet with in 14 Iraq is Undersecretary of Bilateral Relations from 15 the Ministry of Foreign Affairs, 16 Nizar Issa Abdul-Hadi Al-Khairalla.</p> <p>17 Q All right. And will you hand the court 18 reporter the -- the piece of paper that has the 19 name on it so she can have the spelling --</p> <p>20 A Yes. 21 Q -- please. 22 Thank you. 23 So we were talking earlier about the RCI. 24 And we saw that there were documents that had put Iraq 25 in the ARON category.</p>
<p style="text-align: right;">Page 114</p> <p>1 (Exhibit 7 was referenced.) 2 BY MS. SCOTT: 3 Q We're going to look at the same line on 4 this one, which, again, is under -- has a header 5 "Date Consular/Embassy Person Contacted, Results 6 Regarding Likelihood of Issuance." 7 And it says, "No response." 8 So would that trigger a SLRRFF analysis?</p> <p>9 A That's on 269857?</p> <p>10 Q Yes.</p> <p>11 A So this is where the -- the DO in the 12 field e-mailed Julius Clinton, and Julius didn't 13 respond to the e-mail.</p> <p>14 Q Okay. Thank you. Okay. That makes more 15 sense. Okay. Gotcha.</p> <p>16 A Okay.</p> <p>17 Q All right. Let's push those off to the 18 side, then.</p> <p>19 MR. SILVIS: I just wanted to note the 20 time, too. I don't know what your planning was. I 21 think this was the prearranged break, but --</p> <p>22 MS. SCOTT: I -- let's go off the record. 23 (Whereupon, at 11:44 a.m., the deposition 24 in the above-entitled matter was recessed, to 25 reconvene at 12:49 p.m., this same day.)</p>	<p style="text-align: right;">Page 116</p> <p>1 Has Iraq moved into the cooperating category? 2 A During lunch, I had the opportunity to 3 review the -- the latest run to ensure that I had 4 provided you with the correct information. 5 Iraq is still currently within the ARON. 6 So that is where they currently stand. So they're 7 currently ranked at risk of noncompliance.</p> <p>8 Q So when you were testifying earlier about 9 them being a cooperating country, you weren't 10 using the formal category that's used through the 11 RCI, correct?</p> <p>12 A Right. They -- they hadn't been 13 classified -- and I may have just misspoke at the 14 time. And I verified that they're currently an 15 ARON country.</p> <p>16 Q Okay. We've also been talking about a 17 Statement of Cooperation. And I want to see if we 18 can't nail that down a little better about what 19 that statement is.</p> <p>20 MS. SCOTT: Are we on Exhibit 8? 21 THE REPORTER: Yes. 22 (Exhibit 8 was marked for identification.) 23 THE WITNESS: Thank you.</p> <p>24 BY MS. SCOTT: 25 Q So I'm handing you an e-mail from you that</p>

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<p>1 attaches a cable that is dated March 12th, 2017.</p> <p>2 Is the cable in this document what you're</p> <p>3 calling the Statement of Cooperation?</p> <p>4 A It is.</p> <p>5 Q Are there any other Statements of</p> <p>6 Cooperations or amendments to the Statement of</p> <p>7 Cooperation?</p> <p>8 A No.</p> <p>9 Q So this is the -- what -- what's reflected</p> <p>10 in Exhibit 8 is the full Statement of Cooperation,</p> <p>11 correct?</p> <p>12 A This -- correct. This is -- this is what</p> <p>13 I've -- what I consider to be the Statement of</p> <p>14 Cooperation.</p> <p>15 Q Okay. Was the Statement of Cooperation</p> <p>16 drafted by the Iraqi Government?</p> <p>17 A So this -- this cable was drafted by --</p> <p>18 let's see. It was drafted by Bridgette Wheeler of</p> <p>19 the Department of State.</p> <p>20 Q Do you have any -- any documents from Iraq</p> <p>21 which has set forth in writing the Statement of</p> <p>22 Cooperation? And when I say "you," I mean ICE or</p> <p>23 any other department of the Government.</p> <p>24 A To my knowledge, there's no written</p> <p>25 acknowledgement of a Statement of Cooperation or</p>	<p>1 That's at paragraph 1, correct?</p> <p>2 A That's correct.</p> <p>3 Q Who is the deputy consul general?</p> <p>4 A So the -- I don't know the -- the name of</p> <p>5 the deputy consul general. But -- so the</p> <p>6 Department of State has different cones, and</p> <p>7 that's how they break up their organization. And</p> <p>8 there's the consular cone. And at the embassies,</p> <p>9 you've got your consul general and then your</p> <p>10 deputy. So that would be second to the -- the</p> <p>11 consul general.</p> <p>12 Q Okay. So those are -- those are referring</p> <p>13 to US Government officials, though, correct?</p> <p>14 A That's correct. The assistant legal</p> <p>15 attache would be an FBI agent.</p> <p>16 Q Okay. And when we've been talking</p> <p>17 about -- okay.</p> <p>18 Going down further in that same paragraph,</p> <p>19 it says, "Al-Rikabi said the committee had</p> <p>20 identified four necessary steps for Iraq to</p> <p>21 facility the deportations."</p> <p>22 And one of those is consular access.</p> <p>23 Do you have an understanding of why they</p> <p>24 needed consular access?</p> <p>25 A So it's -- my understanding from meeting</p>
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<p>1 written agreement that codifies this information.</p> <p>2 Q Okay. Do you know if any member of the</p> <p>3 Iraqi Government was handed this cable and asked</p> <p>4 to confirm the statements within it are accurate?</p> <p>5 A I do not know if anybody from Iraq</p> <p>6 verified this cable.</p> <p>7 Q Do you know who would be able to confirm</p> <p>8 if Iraq has received this cable and confirmed its</p> <p>9 accuracy?</p> <p>10 A I -- I would -- I would guess that it</p> <p>11 would either be Bridgette Wheeler or, perhaps,</p> <p>12 Ambassador Silliman, whose signature is digitally</p> <p>13 on this cable, regarding the -- the statement.</p> <p>14 Typically, from my experience in past</p> <p>15 meetings -- bilateral meetings, there is sort of</p> <p>16 an agreement in notes of the -- what's transpired</p> <p>17 during the meeting. So this may have occurred in</p> <p>18 this case. So I'm sure, if needed, at some point,</p> <p>19 somebody could figure that out.</p> <p>20 Q All right. So let's walk through the</p> <p>21 document.</p> <p>22 So, according to this document, the deputy</p> <p>23 consul general and the assistant legal attache met</p> <p>24 with Dr. Kadim Al-Rikabi from the Ministry of</p> <p>25 Foreign Affairs.</p>	<p>1 with the Iraq Embassy in Washington, is that the</p> <p>2 consular access was just to meet with the</p> <p>3 nationals who would be returned, sort of to ensure</p> <p>4 that they had a place to go upon arrival within</p> <p>5 Iraq.</p> <p>6 Q Was it your understanding that part of the</p> <p>7 consular access was to confirm whether the Iraqi</p> <p>8 national wanted to return to Iraq?</p> <p>9 A No.</p> <p>10 Q And then it says, "Al-Rikabi said the</p> <p>11 deportations are a high priority for the Prime</p> <p>12 Minister and Foreign Minister, and the committee</p> <p>13 was prepared to finalize, within 30 days, the</p> <p>14 removal of the first group of deportees."</p> <p>15 What's the first group of deportees?</p> <p>16 A So, during this time, we were still</p> <p>17 working on getting that April charter up. I'm not</p> <p>18 100 percent certain what -- or what the cable is</p> <p>19 referencing that Al-Rikabi was indicating would be</p> <p>20 the first group. I can only guess that the first</p> <p>21 group would be to finalize that charter that we</p> <p>22 were working on, and, then go from there.</p> <p>23 Q Okay. And do you know if it -- if the --</p> <p>24 if the finalization did take place within 30 days?</p> <p>25 A Of -- of the -- the April charter was out</p>

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<p style="text-align: right;">Page 121</p> <p>1 37 days later, roughly.</p> <p>2 Q Okay. Okay. Let's go down to</p> <p>3 paragraph 2. So let's go down to paragraph 2.</p> <p>4 The -- it says that an interministerial</p> <p>5 committee on deportations was formed, and it</p> <p>6 identifies various ministries that are part of the</p> <p>7 interministerial economy.</p> <p>8 Earlier, we were talking about references</p> <p>9 to Baghdad, and getting travel documents approved</p> <p>10 by Baghdad, and you mentioned a committee.</p> <p>11 Is this the same committee you were</p> <p>12 talking about?</p> <p>13 A Yes.</p> <p>14 Q Does this committee still exist? Do you</p> <p>15 know?</p> <p>16 A To --</p> <p>17 Q Today?</p> <p>18 A To my knowledge, yes.</p> <p>19 Q Have they -- have the members of this</p> <p>20 committee changed at all since March 2017?</p> <p>21 A I do not know.</p> <p>22 Q Do you know who are -- who are the members</p> <p>23 of the committee? Individuals?</p> <p>24 A No.</p> <p>25 Q And then -- yes. And then it talks about</p>	<p style="text-align: right;">Page 123</p> <p>1 countries to. And that's the response we would</p> <p>2 like to get from Iraq.</p> <p>3 Q So, according to this cable, the Statement</p> <p>4 of Cooperation anticipated that the government of</p> <p>5 Iraq would issue travel documents rather than</p> <p>6 approve a flight manifest, correct?</p> <p>7 A I don't think it says "rather than." But</p> <p>8 it does say "would streamline in the need for</p> <p>9 travel documents."</p> <p>10 Right. They would issue travel documents.</p> <p>11 Q And for the April 2017 flight, travel</p> <p>12 documents were issued; correct?</p> <p>13 A That is correct.</p> <p>14 Q And there was going to be a flight in June</p> <p>15 2017; is that correct?</p> <p>16 A That's correct.</p> <p>17 Q And for that flight, ICE was attempting to</p> <p>18 get travel documents for those Iraqi nationals,</p> <p>19 correct?</p> <p>20 A That's correct.</p> <p>21 Q At any time, did ICE try to effectuate the</p> <p>22 June 2017 flight by submitting a flight manifest</p> <p>23 versus obtaining travel documents?</p> <p>24 A No. It was my intention to get travel</p> <p>25 documents for the individuals on the flight.</p>
<p style="text-align: right;">Page 122</p> <p>1 a Deputy Foreign Minister Khairalla.</p> <p>2 Is that Mr. Nizar, that we've been talking</p> <p>3 about today?</p> <p>4 A That falls in line with his name. So I</p> <p>5 would assume, yes.</p> <p>6 Q Okay. Do you know what the -- the paren</p> <p>7 "Rucktail" means?</p> <p>8 A I don't know off the top of my head.</p> <p>9 Sorry.</p> <p>10 Q Okay. Do you know when the April 2017 --</p> <p>11 when an agreement to allow the April 2017 charter</p> <p>12 to go forward was reached with Iraq?</p> <p>13 A I don't know.</p> <p>14 Q Okay. All right. And then down at four,</p> <p>15 it says -- it says that Al-Rikabi said that "once</p> <p>16 a deportation notification and accompanying</p> <p>17 documents were received by the MFA, the Ministry</p> <p>18 of Interior would review and verify the evidence</p> <p>19 of citizenship provided by the United States."</p> <p>20 Has there ever been a requirement on how</p> <p>21 long the review and verification of evidence of</p> <p>22 citizenship would take?</p> <p>23 A So it's Ice's typical stance that a travel</p> <p>24 document be issued within 30 days of a request.</p> <p>25 So that -- that's the standard that we hold all</p>	<p style="text-align: right;">Page 124</p> <p>1 Q Okay. All right. Iraq will sometimes --</p> <p>2 will sometimes issue a laissez-faire -- well,</p> <p>3 sorry. That's my economics background. I</p> <p>4 apologize. I'm going to start over.</p> <p>5 Okay. The Iraqi Government will sometimes</p> <p>6 issue a laissez-passer?</p> <p>7 A Mm-hmm.</p> <p>8 Q Am I pronouncing that correctly?</p> <p>9 A Laissez-passer.</p> <p>10 Q Okay. Is that sufficient to allow an</p> <p>11 Iraqi national to be deported on a commercial</p> <p>12 plane?</p> <p>13 A Yes.</p> <p>14 Q I told you we're asking you some very</p> <p>15 basic questions.</p> <p>16 All right. Now, we're going to get into</p> <p>17 some numbers, which should make for some fun.</p> <p>18 MS. SCOTT: Okay. This is going to be</p> <p>19 Exhibit 9.</p> <p>20 (Exhibit 9 was marked for identification.)</p> <p>21 THE WITNESS: Thank you.</p> <p>22 BY MS. SCOTT:</p> <p>23 Q Do you recognize this document?</p> <p>24 A Yes.</p> <p>25 Q So let me -- let me ask you this question:</p>

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<p style="text-align: right;">Page 145</p> <p>1 this were to be dated July 2018, and then the</p> <p>2 officer had recommended release, then I would've</p> <p>3 certainly seen this. Yes.</p> <p>4 Q Okay. The second-to-last sentence --</p> <p>5 actually, it's the very last part of the first</p> <p>6 sentence of the document. It starts with, "Also,</p> <p>7 Mr. Shou stated that he is unwilling voluntary</p> <p>8 repatriated to Iraq. Therefore, and according to</p> <p>9 our regulations, we will not be able to start any</p> <p>10 application for him at this time."</p> <p>11 Did I read that correctly?</p> <p>12 A You did.</p> <p>13 Q Okay. Do you know what happened after</p> <p>14 receiving this letter with regards to Mr. Shou's</p> <p>15 detention?</p> <p>16 A I do not.</p> <p>17 Q Would that type of -- of statement from</p> <p>18 the Iraqi Government trigger a SLRRFF analysis?</p> <p>19 A What I would have -- I -- I don't know</p> <p>20 what happened in this particular case.</p> <p>21 Q Mm-hmm.</p> <p>22 A But what I would've liked to have had</p> <p>23 happen is that the officer brought it to the</p> <p>24 attention of his -- this went to the -- this went</p> <p>25 to the -- the office in Detroit, not to my</p>	<p style="text-align: right;">Page 147</p> <p>1 document. But that's not to say I haven't seen</p> <p>2 it.</p> <p>3 Q Okay. So let me ask you this, then: Are</p> <p>4 you familiar with Iraq making statements to</p> <p>5 various European Union countries and Canada</p> <p>6 about -- let me start over.</p> <p>7 In January 2017, were you aware that other</p> <p>8 countries were being told by Iraq that they would not</p> <p>9 accept and force repatriation of their nationals?</p> <p>10 A No. I do know about the Brussels' working</p> <p>11 group. But it's a working group that the US group</p> <p>12 doesn't have an active role in. We only have an</p> <p>13 observation role. So, unfortunately, since we</p> <p>14 didn't have much of a role in it, I wasn't very</p> <p>15 engaged in what was going on. So that's why I</p> <p>16 said I don't know if I recall it.</p> <p>17 Like, I may have seen this document. But</p> <p>18 if I did, I didn't pay much -- I didn't give them</p> <p>19 much of my attention. So I don't recall reading</p> <p>20 this readout from this teleconference.</p> <p>21 Q Okay. So let's leave it at that, then.</p> <p>22 All right. Okay.</p> <p>23 MS. SCOTT: Let's mark this next one as</p> <p>24 Exhibit 13.</p> <p>25 (Exhibit 13 was marked for</p>
<p style="text-align: right;">Page 146</p> <p>1 officer. My officer should've, eventually, gotten</p> <p>2 it, but I'm not certain if he did. But I would've</p> <p>3 liked my officer to -- to talk to his unit chief</p> <p>4 to make contact with the embassy to discuss this</p> <p>5 situation. Because, again, volunteering to return</p> <p>6 to your country is not part of the removal order.</p> <p>7 Q Okay. I understand that.</p> <p>8 But if Iraq is indicating that they will</p> <p>9 not start any applications for travel documents</p> <p>10 for an individual, that means you cannot</p> <p>11 repatriate the individual to Iraq, correct?</p> <p>12 A So -- yes. I -- if they indicate that</p> <p>13 they're not going to start anything. But this is</p> <p>14 from the consul. The embassy oversees the</p> <p>15 consuls. So we should engage the embassy.</p> <p>16 Q Okay. Okay. Now I understand most of</p> <p>17 your answers. Okay. Thank you. Okay.</p> <p>18 MS. SCOTT: So I'm going to mark the next</p> <p>19 as Exhibit 12.</p> <p>20 (Exhibit 12 was marked for</p> <p>21 identification.)</p> <p>22 BY MS. SCOTT:</p> <p>23 Q Okay. Are you familiar with -- with</p> <p>24 Exhibit 12?</p> <p>25 A I -- I don't necessarily recall this</p>	<p style="text-align: right;">Page 148</p> <p>1 identification.)</p> <p>2 BY MS. SCOTT:</p> <p>3 Q So this document is a June 7th, 2017,</p> <p>4 letter from the consul of Iraq in Washington, DC,</p> <p>5 to the Department of Homeland Security,</p> <p>6 Mr. Julius Clinton, who was somebody that worked</p> <p>7 under you, correct?</p> <p>8 A That's correct.</p> <p>9 Q Have you seen this document before?</p> <p>10 A Yes. It looks familiar.</p> <p>11 Q Okay. And it says, "With reference to</p> <p>12 your request for travel documents for the aliens</p> <p>13 whose names are listed in the attachment, kindly</p> <p>14 be advised the Embassy of the Republic of Iraq in</p> <p>15 Washington, DC, is unable to issue such travel</p> <p>16 documents for the lack of required official Iraqi</p> <p>17 documents."</p> <p>18 Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q Okay. And then the second-to-last</p> <p>21 sentence starts -- it says, "The applicant must</p> <p>22 submit with his request an original and valid</p> <p>23 Iraqi personal identification card and Iraqi</p> <p>24 citizenship certificate and should express orally</p> <p>25 and in writing his willingness to return to Iraq</p>

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<p>Page 149</p> <p>1 voluntarily in order to be issued a travel 2 document." 3 Did I read that correctly? 4 A Correct. 5 Q And if you turn the page, there's a list 6 of 24 individuals. The person at No. 9 is 7 Usama Hamama, which is the petitioner in the 8 Hamama litigation, correct? 9 A I actually don't know his first name. 10 Q Okay. Well, let me represent that to you. 11 A Okay. 12 Q All right. So upon receiving this letter, 13 was there a SLRRFF analysis conducted as to 14 whether or not Mr. Hamama could be removed to 15 Iraq? 16 MR. SILVIS: Object to the foundation. 17 THE WITNESS: So what -- what this letter 18 states is something that the embassy has stated 19 after the Statement of Cooperation had come out. 20 I had met with the ambassador. And, 21 basically, this letter states the embassy will not 22 issue the documents. You know, they wanted to have 23 Baghdad mandate that the embassy issue the 24 documents. So this document -- this statement is 25 not saying that they're not going -- that they're</p>	<p>Page 151</p> <p>1 A Mm-hmm. That's correct. 2 Q And did you -- did ICE submit travel 3 documents to the embassy in DC for these 4 individuals in -- in May or June 2017? 5 A For the -- 6 Q For these individuals. 7 A Oh, for those -- sorry. For those 8 individuals, I can only surmise from this letter 9 that Julius sent those cases to the Iraq Embassy 10 in Washington, DC. 11 Q But you don't know for sure? 12 A I do not know for sure. 13 Q So you don't know for sure if what the 14 embassy is saying here has been directed by 15 Baghdad to State, do you? 16 A I do not know for sure. 17 Q What did -- what happened after this 18 letter was received to obtain travel documents for 19 these individuals? 20 MR. SILVIS: Object to the form. 21 THE WITNESS: These cases were -- I don't 22 know for certain. But these cases should've been 23 part of that 280 tranche that was sent to Baghdad 24 during the same time frame. 25 Q And did you receive any statement from</p>
<p>Page 150</p> <p>1 not Iraqi. This is just more of their way of 2 saying, "Go through your other channel. Go through 3 Department of State as -- as you did with the 4 April 2017 charter, those individuals, to get 5 the travel -- to get the -- the authorization to 6 issue travel documents." 7 Have it come from Iraq versus the embassy. 8 Q Okay. Where in this letter does it say 9 that you should go to Iraq, or what we've been 10 calling Baghdad, to get the documents? 11 A The letter doesn't explicitly say that. 12 But I know from my experience and my engagement 13 with the -- the Iraqi Embassy, especially after 14 the -- the e-mail on March 12th or March 13th 15 regarding the interministerial committee on 16 deportations. I -- I met with the embassy, and 17 they -- they said -- they outlined, you know, 18 which cases they wanted to go to the -- to Iraq, 19 cases that they wanted to come to Washington. 20 And this is, essentially, stating that 21 these cases should go directly to Iraq without 22 explicitly saying that. 23 Q Okay. So the -- the travel documents -- 24 we saw in an earlier document that the 280 travel 25 documents were submitted to Baghdad, correct?</p>	<p>Page 152</p> <p>1 Baghdad on those 280 requests after this letter 2 was received by Julius Clinton? 3 A I don't recall any written notification 4 from the embassy or from the -- or from Baghdad 5 regarding the 280 cases. 6 Q Did Baghdad issue any travel documents 7 after June 7th, 2017, for these individuals 8 after -- after this letter was received? 9 MR. SILVIS: Just a clarification. What do 10 you mean, "these"? Are you pointing to the -- 11 you're pointing to the letter. 12 MS. SCOTT: I'm pointing to the individuals 13 on the letter. 14 MR. SILVIS: Okay. So you're pointing to 15 the individuals in '17? 16 MS. SCOTT: So let me -- let me clarify the 17 record. 18 MR. SILVIS: Sure. 19 BY MS. SCOTT: 20 Q After receiving this letter, and after 21 Baghdad having received the 280 travel documents, 22 did Baghdad issue travel documents? 23 MR. SILVIS: Object to the form. 24 THE WITNESS: I don't believe, from the 25 280 -- I don't have visibility on every single case</p>

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<p>1 may be the immigration enforcement EO. I don't 2 know which one 13768 is. 3 Q Okay. What's an immigration EO? 4 A So, upon entry into office, 5 President Trump signed a few EOs, I think, within 6 the first week. And one of them was regarding, 7 essentially, interior enforcement -- interior 8 immigration enforcement. And within that, there 9 was a bullet on foreign countries taking their 10 nationals back. 11 Q And did that have anything to do with 12 Iraq? 13 A No. It was just foreign countries. 14 Q Are you aware of any MOU between Iraq and 15 the State -- I'm sorry -- Iraq and State? Is 16 "State" referring to Department of State? 17 A That's correct. 18 Q Okay. Are you aware of any MOU between 19 Iraq and State? 20 A I -- on removals? 21 Q On repatriations and the return of Iraqi 22 nationals. 23 A No. I don't -- I'm not aware of any MOU 24 between the Department of State and Iraq on 25 removals or repatriation.</p>	<p>1 gotten a -- I forget the number, but we had gotten 2 a decent amount of travel documents, and we wanted 3 to get the individuals out as soon as possible. 4 We do have restrictions going commercially to some 5 countries. I don't know exactly how long it takes 6 to get to Iraq. Not -- obviously, in the air, it 7 doesn't take that long. But there's country 8 clearances and then notification time periods and 9 transiting issues. 10 So the -- you know, we can get a small 11 flight bought and paid for and scheduled within 12 ten days, which is much quicker than getting the 13 field to schedule a commercial removal for an 14 individual. So it was more -- it was mostly about 15 efficiencies, about getting, you know, at least 16 some of them out as soon as possible. 17 Q So why did you want to get them out as 18 soon as possible? 19 A Because they had already been in custody 20 for almost over a year, you know, from the -- 21 prior to the inception of the litigation, and then 22 during the litigation until they were removed from 23 the class. And then they got the final order. 24 I mean, at the end of the day, people 25 are -- in ICE custody are being -- you know, they</p>
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<p>1 Q Okay. Are you aware of any negotiations 2 between Iraq and the State on an MOU about 3 repatriations? 4 A No. 5 Q Have you been involved in any negotiations 6 between Iraq and the State on repatriations of 7 Iraqi nationals? 8 A No. 9 Q Are you aware of any -- anybody at DHS 10 that is working on an MOU between State and Iraq 11 on repatriation of Iraqi nationals? 12 A No. 13 Q Do you know of any MOU between DHS and 14 Iraq about repatriation? 15 A No. 16 MS. SCHLANGER: Seems like -- yeah. 17 BY MS. SCOTT: 18 Q All right. Let's push that off to the 19 side. 20 Why was the May 2018 flight a charter? 21 Let me rephrase that. 22 So in May 2018, some Iraqi nationals were 23 removed. 24 Why was a charter used? 25 A So we had gotten the sense -- we had</p>	<p>1 don't have, you know, the civil liberties. 2 They're not -- they're not free to, you know, do 3 what they want to do. I'm sure they want to get 4 out as soon as possible. 5 So -- and, you know, additionally, you 6 know, it costs ICE \$133 a day to detain somebody. 7 So it makes sense, both on a humanitarian issue 8 and a fiscal issue, to remove them as soon as 9 possible. 10 Q Does detention take a toll on a person? 11 MR. SILVIS: Object to the form. 12 THE WITNESS: I think it depends on the 13 person. 14 BY MS. SCOTT: 15 Q In general, do you think a year of 16 detention is -- is tough on people? 17 MR. SILVIS: Object to the form and 18 foundation. 19 THE WITNESS: I would think -- to be honest 20 with you, some people, yes, have a hard time. But 21 some people never want to leave. 22 BY MS. SCOTT: 23 Q What do you mean by that? 24 A That they get comfortable in detention. 25 They have their Nintendo, their warm meals, and</p>

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1 received an e-mail from folks at the US Embassy in
2 Baghdad regarding the meeting.
3 Q Okay. Did they give you any information
4 about what was discussed during the meeting, other
5 than the interviews starting?
6 A Not that I recall. No.
7 Q So you weren't privy -- you weren't part
8 of the -- of the meeting between the Baghdad --
9 the US Embassy in -- US Embassy, Baghdad, and the
10 deputy foreign minister, correct?
11 A That is correct.
12 Q Did -- the e-mail references that there's
13 going to be interviews started, correct?
14 A That's correct.
15 Q Were interviews conducted in July 2017?
16 A Yes.
17 Q Do you know how many interviews were
18 conducted?
19 A Roughly, 75 to 80-ish.
20 Q And after conducting those 75 to 80-ish
21 interviews, were any travel documents issued by
22 Iraq?
23 A No.
24 Q Okay.
25 MS. SCOTT: This is going to be Exhibit 22?

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1 THE REPORTER: Yes.
2 (Exhibit 22 was marked for
3 identification.)
4 THE WITNESS: Thank you.
5 BY MS. SCOTT:
6 Q All right. So this is an e-mail from
7 Floyd Farmer to you. And I will let you know that
8 we did not receive the attachments in the
9 production. But the subject line says, "FWD:
10 Sanctions Iraq," correct?
11 A Mm-hmm. That's correct.
12 Q Okay. And it's dated July 20th, 2017,
13 correct?
14 A That's correct.
15 Q Okay. And the attachments are called
16 formal -- "Formal Letter S1 to S1, Invoke Visa
17 Sanctions Iraq.docx."
18 There's also a memo, "EAD to D1, Invoke
19 Visas Sanctions Iraq.doc."
20 And there's a memo, "D1 to S1, Invoke Visa
21 Sanctions (7-19-17) Iraq.doc."
22 And then a white paper, "Invoke visa
23 Sanctions Iraq.docx."
24 Was there any letter sent to the -- sent to
25 Iraq about sanctions?

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1 A No.
2 Q Are you aware of -- are these documents
3 recommendations to sanction Iraq?
4 A Yes.
5 Q And who did these documents go to,
6 eventually?
7 A Well, eventually, they will go to the
8 Secretary of Homeland Security.
9 Q And do you know if they were sent to the
10 Secretary of Homeland Security?
11 A I don't believe that they were.
12 Q Do you know why?
13 A Because there was an exercise last summer
14 regarding 243(d) packages that never -- never
15 came -- never concluded.
16 Q All right. What are 243(b) packages?
17 A 243(d).
18 Q 243(d) packages. Thank you.
19 A 243(d). The package that I'm referencing
20 is the S1 to S1 letter to invoke visa sanctions.
21 EAD to D1, that's the executive associate
22 director of ERO to the director of ICE to invoke
23 sanctions, the recommendation letter.
24 Then the other letter is a director vice
25 to the Secretary of Homeland Security recommending

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1 sanctions.
2 And then the last document in this package
3 is a white paper, which sort of outlines all our
4 engagement with whatever countries that need to be
5 sanctioned.
6 Q And the visa sanctions referenced here, is
7 that the same set of sanctions that we -- the
8 same -- let me rephrase.
9 Earlier this morning, we talked about what
10 types of sanctions could be imposed on Iraq if they
11 don't agree to repatriation.
12 Is that the same sort of visa sanctions that are
13 being referenced here?
14 A Yes.
15 Q Do you have an understanding of why the
16 sanctions weren't imposed?
17 A Because, at the time, we didn't agree upon
18 going forward with the sanctions.
19 Q Who did not agree with going forward with
20 the sanctions?
21 MR. SILVIS: I think, at this point, we're
22 going into the deliberative process-type situation
23 if we're discussing different policy alternatives
24 and how to go forward.
25 So I think, at this point, I'll instruct

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<p style="text-align: right;">Page 193</p> <p>1 him not to answer that.</p> <p>2 MS. SCOTT: All right.</p> <p>3 MS. SCHLANGER: Let's step outside for two</p> <p>4 seconds.</p> <p>5 MS. SCOTT: Okay.</p> <p>6 Let's go off the record.</p> <p>7 (Recess.)</p> <p>8 BY MS. SCOTT:</p> <p>9 Q Did -- were these memos sent to EAD?</p> <p>10 A I don't recall if they were sent to the</p> <p>11 EAD. Actually, they were created.</p> <p>12 Q I'm sorry. They were created by?</p> <p>13 A If they're -- my unit created them. I</p> <p>14 don't know if they made it to the EAD. I don't</p> <p>15 know.</p> <p>16 Q Do you know if -- if they were sent to the</p> <p>17 Secretary of DHS -- ck audio</p> <p>18 Oh, the director of DHS? Thank you.</p> <p>19 MS. SCHLANGER: No. No. No.</p> <p>20 BY MS. SCOTT:</p> <p>21 Q Oh, did they make it to the director of</p> <p>22 ICE?</p> <p>23 A I -- it -- I don't know if they made -- if</p> <p>24 they didn't make it to the director of ERO -- or</p> <p>25 EAD, they wouldn't have made it to the director of</p>	<p style="text-align: right;">Page 195</p> <p>1 each of those countries?</p> <p>2 A They're still under sanction.</p> <p>3 Q How many times were visa sanctions issued</p> <p>4 in fiscal year '18, besides those four countries</p> <p>5 you just mentioned?</p> <p>6 A I may be off on my fiscal year. Those</p> <p>7 sanctions occurred in September. I think they</p> <p>8 were September 13th. It may have been at the end</p> <p>9 of 2016.</p> <p>10 Q So why don't we do it this way. Let's do</p> <p>11 it this way: If it makes it easier, why don't we</p> <p>12 walk through each of those four and say what month</p> <p>13 the sanctions were issued.</p> <p>14 A Sure. Sure.</p> <p>15 So Guinea, Sierra Leone, Eritrea, and</p> <p>16 Cambodia were all sanctioned -- pretty certain it</p> <p>17 was September 13th, 2017, or August 13th, 2017.</p> <p>18 All of those countries are currently under</p> <p>19 sanctions -- remain under sanctions.</p> <p>20 Q Okay. Were there any new countries</p> <p>21 sanctioned in 2018?</p> <p>22 A Burma and Laos were just sanctioned</p> <p>23 July 9th, 2018.</p> <p>24 Q Did you say Laos?</p> <p>25 A Laos.</p>
<p style="text-align: right;">Page 194</p> <p>1 ICE.</p> <p>2 Q Okay. All right. So you just don't know</p> <p>3 how far it got in the process. Okay?</p> <p>4 A I -- that's correct.</p> <p>5 Q All right.</p> <p>6 MS. SCHLANGER: Do one more. Trust me.</p> <p>7 Just ask.</p> <p>8 Q Okay.</p> <p>9 BY MS. SCOTT:</p> <p>10 Q Did it make it to SI?</p> <p>11 A No, it didn't make it to SI.</p> <p>12 MS. SCOTT: Let's take a break.</p> <p>13 (Recess.)</p> <p>14 BY MS. SCOTT:</p> <p>15 Q I want to go back to talking about visa</p> <p>16 sanctions.</p> <p>17 A Mm-hmm.</p> <p>18 Q How many times in fiscal year 2017 were</p> <p>19 visa sanctions issued?</p> <p>20 A For --</p> <p>21 Q And what countries received those</p> <p>22 sanctions?</p> <p>23 A Cambodia, Eritrea, Sierra Leone, and</p> <p>24 Guinea.</p> <p>25 Q And how long did the sanctions last for</p>	<p style="text-align: right;">Page 196</p> <p>1 Q And is that it for 2018?</p> <p>2 A I believe that's it. Yes.</p> <p>3 Q Okay. And how long do -- do visa</p> <p>4 sanctions, typically, last? Is there a specific</p> <p>5 period, or is it until a specific conduct happens?</p> <p>6 A So the -- The Gambia was sanctioned</p> <p>7 September 2016. They were, essentially, on --</p> <p>8 they were under sanctions for, roughly, a year.</p> <p>9 But to answer your question, it's not a</p> <p>10 timeline. It's a performed-based evaluation.</p> <p>11 Q Okay. All right. And I just want to</p> <p>12 confirm that in 2017, there were just those four</p> <p>13 countries that were sanctioned.</p> <p>14 A Yes. And -- but I just want to caveat,</p> <p>15 I'm pretty certain it was August or</p> <p>16 September 2017. So it would be fiscal year 2016,</p> <p>17 not fiscal year 2017. And it was those four</p> <p>18 countries.</p> <p>19 Q Okay. In fiscal year 2016, how many</p> <p>20 countries were sanctioned?</p> <p>21 A The Gambia was sanctioned in October 2016.</p> <p>22 Q And is that it for fiscal year 2016?</p> <p>23 A Well, if -- if the other four were</p> <p>24 sanctioned in August and September, then they also</p> <p>25 would be 2016 --</p>

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<p style="text-align: right;">Page 217</p> <p>1 Is there a plane scheduled to return Iraqi 2 nationals to Iraq in July?</p> <p>3 A There is currently not a charter scheduled 4 to remove Iraqi nationals in July. All -- all 5 removals are currently scheduled -- all removals 6 are being scheduled commercially at this time.</p> <p>7 Q And that's going to be in July, correct?</p> <p>8 A In July -- right now, we don't have 9 anything on my desk, or anything cooking for any 10 time in the future. Not -- not in -- not in, you 11 know, forever future, but the immediate -- you 12 know, July -- July is two weeks over -- it's over 13 in two weeks. There's no Iraq charter that's 14 going to occur in July.</p> <p>15 Q Okay.</p> <p>16 MS. SCHLANGER: All right.</p> <p>17 MS. SCOTT: Thank you very much for your 18 time.</p> <p>19 MR. SILVIS: I have a couple follow-ups 20 that I wanted to do. Yeah. So you might have some 21 after. So if I could just have a few.</p> <p>22 EXAMINATION BY COUNSEL FOR RESPONDENTS</p> <p>23 BY MR. SILVIS:</p> <p>24 Q Let's see. I'll ask you about a few 25 documents here.</p>	<p style="text-align: right;">Page 219</p> <p>1 this?</p> <p>2 A Yes.</p> <p>3 Q And do you know -- of those 21 cases, do 4 you know if there have been travel documents 5 issued for any of them, or do you not know, one 6 way or the other?</p> <p>7 A I don't know, one way or the other.</p> <p>8 Q So it's possible that some of those 21s 9 that were submitted to Baghdad have actually 10 issued travel documents?</p> <p>11 MS. SCOTT: Objection; foundation.</p> <p>12 BY MR. SILVIS:</p> <p>13 Q Is it possible that some have issued?</p> <p>14 A It's possible that some have had travel 15 documents issued.</p> <p>16 Q Okay. Then, if you could, grab -- there's 17 a few that I wanted to ask you about. It's a 18 document -- Exhibits 11 and 13. 19 (Exhibit 11 & 13 were referenced.)</p> <p>20 BY MR. SILVIS:</p> <p>21 Q First, my question, before today, had you 22 seen Exhibit No. 11?</p> <p>23 A I think I -- I think I actually have seen 24 11 before. It looks somewhat familiar to me.</p> <p>25 Q Okay. And then same question with</p>
<p style="text-align: right;">Page 218</p> <p>1 Let's see. Would you grab Exhibit No. 4? 2 (Exhibit 4 was referenced.)</p> <p>3 THE WITNESS: (Witness complies.) 4 Yes. I have it.</p> <p>5 BY MR. SILVIS:</p> <p>6 Q And then, if you turn within Exhibit 4 7 to -- the bottom of the page is Bates marked 8 ICE0271055.</p> <p>9 A Yes.</p> <p>10 Q And it's where they're discussing Iraq -- 11 where the document discusses Iraq.</p> <p>12 A Yes.</p> <p>13 Q Do you see where I'm talking about?</p> <p>14 A Yes.</p> <p>15 Q Okay. In the -- one, two, three -- on the 16 fourth bullet point, it discusses the ERO having 17 submitted 21 cases to Baghdad.</p> <p>18 Do you recall -- do you see that where 19 I'm --</p> <p>20 A Yes.</p> <p>21 Q -- identify that in the document? Okay. 22 I think, earlier, if I heard you correctly, 23 you testified something about those 21 cases having 24 been submitted to Baghdad.</p> <p>25 Do you remember being questioned about</p>	<p style="text-align: right;">Page 220</p> <p>1 Exhibit 13.</p> <p>2 Have you seen it before?</p> <p>3 A Yes, I've seen 13 before.</p> <p>4 Q Okay. Now, when you received these 5 documents -- or if you had seen them before, could 6 you just, briefly, remind us what these are, 11 7 and 13?</p> <p>8 A They're correspondence from 9 representatives of the government of Iraq to -- to 10 ICE officials.</p> <p>11 Q Okay. And what -- what information are 12 they conveying?</p> <p>13 A So Exhibit 13 is indicating that the 14 embassy of Iraq cannot -- is unable to issue 15 documents for 23 -- 24 individuals because they 16 lack required Iraqi documents.</p> <p>17 Q So does that mean -- I'll just ask for 13 18 first, then.</p> <p>19 Does that mean that they will never be 20 issued travel documents?</p> <p>21 A No. For -- it's my understanding that -- 22 in my experience, that we continue to work with 23 the government in Iraq in Baghdad to procure the 24 travel document for these individuals.</p> <p>25 Q Okay. So receiving a letter like No. 13</p>

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1 doesn't mean that the individuals will not receive
2 travel documents?
3 A That's correct. My interpretation on this
4 letter is that the embassy will not issue but has
5 not determined that the individual is not
6 Iraqi and -- and so that we should and will engage
7 with the Ministry of Foreign Affairs or Department
8 of State, who will then engage with the Iraqi
9 individuals.
10 Q And same question with No. 11.
11 When you receive a letter like No. 11,
12 does that mean that you will not get travel
13 documents from Iraq?
14 A No. Again, this is -- this is very
15 similar to -- to the Washington document. But,
16 you know, we -- we would try and leverage our
17 relationship with the -- the embassy in Washington
18 to get assistance while also sending the request
19 to the Department of State to have them engage the
20 government of Iraq in Baghdad.
21 Q So it's possible that after receiving a
22 letter like 11, that -- Exhibit 11, that you will,
23 eventually, get travel documents for those
24 individuals?
25 A That is correct.

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1 Q I wanted to point you to Exhibit No. 18.
2 (Exhibit 18 was referenced.)
3 THE WITNESS: Okay.
4 BY MR. SILVIS:
5 Q Got 18?
6 A Oh, sorry. 18? No. That's the date.
7 I'm going backwards.
8 Q That's all right. Take your time.
9 MS. SCOTT: I think, if you pick up the
10 pile, it's on the bottom of the pile.
11 THE WITNESS: Is it? Oh, here it is.
12 (Witness complies.)
13 I found it.
14 BY MR. SILVIS:
15 Q Before today, had you ever seen the
16 exhibit marked No. 18?
17 A It doesn't look familiar to me.
18 Q And can you turn it over, and look on the
19 other side.
20 A Yes.
21 Q Same -- same question.
22 Does that look like a document that you
23 received before?
24 A It doesn't look familiar.
25 Q All right. Do you know, one way or the

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1 other, if this document is from the Iraqi
2 Government, for sure?
3 A I -- for sure? It looks like the one
4 would be likely to be -- I'm sorry. On the front
5 side, the one that's titled "Ministry of Foreign
6 Affairs," it looks similar to the other ones. The
7 backside, I can't tell. I would say, I don't know
8 where it's from.
9 Q So just by -- so I understand, then, do
10 you know -- you didn't receive Document 18? It
11 wasn't sent to you?
12 A Doesn't look familiar to me. No. I don't
13 know what it is.
14 Q Can you say with any certainty it's from
15 the government of Iraq?
16 MS. SCOTT: Objection; asked and answered.
17 BY MR. SILVIS:
18 Q You can answer.
19 A To be certain, no. But I would say if I
20 were to have received this letter, I would think
21 it was from the government of Iraq.
22 Q Okay. Could you go to Document 21 --
23 Exhibit 21 and, actually, 23 as well.
24 (Exhibit 21 & 23 were referenced.)
25 BY MR. SILVIS:

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1 Q And then you were just asked some
2 questions about Document 23.
3 Do you remember that?
4 A Yes.
5 Q Okay. And I think it was a little earlier
6 in your deposition when you were questioned about
7 Exhibit 21.
8 Do you remember that?
9 A Yes.
10 Q Are -- are Exhibits 21 and 23 talking
11 about the same rounds of interviews?
12 A Yes.
13 Q Okay. And just to remind me, how many
14 interviews were conducted at that time?
15 A 80.
16 Q And you testified that travel documents
17 were not issued immediately after those
18 interviews?
19 A That correct.
20 Q And why is that?
21 A It wasn't the intent of the government of
22 Iraq or the embassy of Iraq to issue travel
23 documents at the time of the interviews.
24 Ambassador Yasseen notified me that they would
25 like to take an exploratory trip to meet with the

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<p style="text-align: right;">Page 229</p> <p>1 from ERO's law enforcement systems analysis unit, 2 the weekly removal and detention report that comes 3 out. And it has the final orders. And that would 4 be the number. 5 Q Yeah. I guess my question is, to the 6 extent that you know, was the 1,400 number 7 something that Iraq set, or was that just the 8 total number of Iraqi nationals with removal 9 orders at that time? 10 A That was the total number of -- of Iraqi 11 nationals with removal orders at that time. 12 Q Okay. And, earlier, you testified that 13 the government of Iraq is ready to issue travel 14 documents to six people who they -- "they," 15 meaning the government of Iraq, knows are not 16 returning to Iraq voluntarily. 17 MS. SCOTT: Objection. 18 BY MR. SILVIS: 19 Q Do you recall that? 20 A Yes, I do recall it. 21 Q Okay. And when do you expect those travel 22 documents to issue? 23 A I expect the documents to be issued 24 tomorrow. 25 Q Okay. And do you have any reason to</p>	<p style="text-align: right;">Page 231</p> <p>1 irrelevant. 2 Q Okay. 3 MR. SILVIS: They might have some redirect 4 for you. 5 EXAMINATION BY COUNSEL FOR PETITIONERS 6 BY MS. SCOTT: 7 Q Yeah. I do have a couple of redirects. 8 With regards to the six Iraqis that you are 9 currently seeking travel documents for and you sent 10 the -- the presentations to Baghdad, if they are 11 put -- if they obtain the travel documents and they 12 are put on a flight to Iraq, is there any guarantee 13 that Iraq will not send those individuals back to the 14 US; or, in other words, not accept the flight? 15 A So if Iraq issues the travel documents for 16 the individuals, we would have every indication to 17 believe that, upon arrival in Iraq, they would be 18 accepted for admission. 19 Q Have you heard that some Iraqi nationals 20 had been returned to Iraq under enforced 21 repatriation from other countries, and Iraq has 22 refused to accept them after the plane landed? 23 A No. 24 Q You have not heard of that? 25 A No.</p>
<p style="text-align: right;">Page 230</p> <p>1 believe that the government of Iraq will not do 2 that in the future for other people that also 3 they're aware that do not want to go back to Iraq? 4 A No. I believe this is -- this is going to 5 be the way forward. 6 Q Okay. Meaning what? 7 A Meaning that this process will continue. 8 We've got the -- we've created the new cover 9 letter for all the travel document presentation 10 packages. And the Ambassador has said that, you 11 know, they'll send it over to Baghdad. Baghdad 12 understands the US Embassy has had communications 13 with the government of Iraq in Baghdad about 14 issuing the travel documents and keeping in the 15 spirit of the Statement of Cooperation. 16 So I think it's -- I think it's -- I 17 suspect it's going to continue. There's nothing 18 that would indicate that it wouldn't. I think if 19 it weren't going to continue, they wouldn't have 20 done it in the first place. 21 Q Do you think it's, ultimately, irrelevant 22 whether an Iraqi national who has a removal order 23 wants to go back to Iraq, in terms of whether 24 they'll actually be removed? 25 A I think it -- yeah. I think it's</p>	<p style="text-align: right;">Page 232</p> <p>1 Q Let's take a look at Exhibit 11 and 13 2 again. 3 (Exhibit 11 & 13 were referenced.) 4 BY MS. SCOTT: 5 Q And these are the letters received from 6 Iraqi Government officials -- one from 7 December 6th, 2016, and one from June 7th, 2017 -- 8 in which they indicate that they will not accept 9 the individuals or issue travel documents because 10 the individuals have not expressed a willingness 11 to return to Iraq; is that correct? 12 A That's correct. 13 Q And you have testified that this is not an 14 indication that travel documents will not be 15 issued by Iraq because you could submit a travel 16 document presentation to Baghdad, correct? 17 A That's correct. And that's based on my 18 conversations with the Iraqi officials from the 19 embassy after they -- the March 12th cable. 20 Q Okay. So this one is -- one of these, 21 Exhibit 13, is June 7th, 2017, correct? 22 A That's correct. 23 Q And that's after what we've been calling 24 the Statement of Cooperation, or the cable, right? 25 A That's correct.</p>

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<p>1 Q Did ICE submit a TD presentation to 2 Baghdad for these individuals? 3 A I presume we did. 4 Q You do not know for certain -- 5 A I do not know for certain. 6 Q Did you have a process in place in June of 7 2017, to issue presentations to Baghdad when 8 embassies denied travel documents? 9 A It's my understanding that all the cases 10 went to Baghdad in June that -- I'm sorry. 11 Q Go ahead. Finish what you were going to 12 say. 13 A It was within that -- that 280 cases that 14 were submitted from late May to the first week of 15 June, those all went to Baghdad. 16 Q And Baghdad between -- and Baghdad, prior 17 to the temporary restraining order in this case, 18 did not issue travel documents, did they? 19 A No. They -- from middle May to third week 20 of June, they did not provide the Iraq Embassy 21 with notification they issued travel documents. 22 Q Okay. So, in effect, these individuals' 23 TD presentations were made to Baghdad, and Baghdad 24 did not issue travel documents, correct? 25 A Prior to the litigation?</p>	<p>1 A That's correct. 2 Q Okay. What kind of document is that? Is 3 it an MOU? 4 A It's an MOU. 5 Q And when was that MOU executed? 6 A Clearly, I'm the best with dates. 7 It was in the summer of 2017. It was 8 signed by Elaine Duke, acting secretary, and 9 Secretary Tillerson. 10 Q Okay. So let's take a look at Exhibit 22. 11 A Sure. 12 (Exhibit 22 was referenced.) 13 BY MS. SCOTT: 14 Q And that exhibit was from Floyd Farmer to 15 you, attaching exhibits, one of them which is 16 called "Formal Letter S1 to S1 Invoke Visa 17 Sanctions Iraq," correct? 18 A That's correct. 19 Q Okay. The analysis that was done to make 20 a recommendation for visa sanctions, was that 21 before or after the MOU between Department of 22 State and DHS? 23 A This -- the MOU was signed after this. It 24 was -- I believe it was August. But the MOU 25 superseded an ICE-DOS MOU from 2011. So that had,</p>
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<p>1 Q Yes. 2 A That is correct. I believe they were 3 submitted to Baghdad, and they were not issued 4 prior to the litigation. 5 Q When we earlier discussed visa sanctions 6 for Iraq, and we looked at an e-mail that had 7 memos and write-ups proposing those sanctions, do 8 you remember that? 9 A Yes. 10 Q Was the proposal for sanctions made 11 pursuant to the MOU between State and DHS that you 12 just testified about? 13 A Can you rephrase that a little bit? 14 Q Sure. Sure. Let's take a look at the -- 15 see if we can find the exhibit here. 16 So you testified -- Mr. Silvis asked you 17 about an MOU between the Department of State and the 18 DHS, correct? 19 MR. SILVIS: I didn't ask him -- don't 20 think that's correct. I didn't ask about an MOU. 21 I didn't ask any questions about an MOU. 22 BY MS. SCOTT: 23 Q Okay. So you testified about a document 24 between the Department of State and DHS discussing 25 sanctions?</p>	<p>1 essentially, the same information. 2 Q So what was the difference between the MOU 3 in 2011 and the MOU that was executed in 2017? 4 A Nothing earth-shattering. But, 5 essentially, it was signed at the secretary level. 6 And it was secretary-to-secretary versus DOS 7 consular affairs and DHS ICE. That was the big -- 8 that was the big change. 9 Q And so the -- in Exhibit 22, when it's 10 talking about the visa sanctions, that was done 11 pursuant to the analysis of the 2011 MOU? 12 A Yeah. 13 Q Okay. There are -- the April 2017 flight 14 had eight people, correct? 15 A I believe it turned out to be seven. 16 Q Seven. Correct. Because one was pulled 17 at the last minute. 18 A (No verbal response.) 19 Q And I believe, you testified earlier that 20 you are not -- you don't have knowledge of whether 21 or not those individuals indicated they were 22 willing to return to Iraq; is that correct? 23 A That's correct. 24 Q Okay. Do you know of any instances in 25 which travel documents had been issued by Iraq</p>

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<p style="text-align: right;">Page 237</p> <p>1 when an individual has indicated they do not want 2 to go back to Iraq? 3 A I don't know specifically if they've 4 issued for people who -- who have verbalized that 5 they do not want to go back. 6 Q Okay. Is ICE actively planning removal of 7 individuals who received travel documents after 8 the May 2018 interviews? 9 A Yes. 10 Q What is your current estimate of the 11 timing of when those -- that flight will take 12 place? 13 A It would be "flights" because it's 14 commercial. They wouldn't all go on the same 15 commercial flight. And I honestly don't know. 16 As I mentioned earlier, depending on 17 transiting routes, some countries, they want X 18 amount of days for -- for -- for clearance to 19 allow the deportee to transit. Other times, 20 there's airlines' restrictions where they'll only 21 allow three deportees worldwide on a certain 22 flight. So with limited flights going into Iraq, 23 I -- I don't have -- I don't have your answer. 24 Q Okay. Have any government officials 25 affirmatively stated that after -- okay. Let me</p>	<p style="text-align: right;">Page 239</p> <p>1 send this to Iraq. We no longer need the 2 declaration. Yarub did chime in and say, Of 3 course, if they volunteer, it's much easier for 4 us. That's -- that's sort of how that 5 conversation went on on July 2nd. 6 Q Okay. But did an Iraqi official state, 7 "We will issue travel documents for any individual 8 that says they do not want to go back"? 9 A They did not make that statement. 10 Q Okay. 11 MS. SCOTT: I don't have any further 12 questions. 13 MR. SILVIS: I think we're done. 14 (Whereupon, at 4:40 p.m., the taking of the 15 instant deposition ceased.) 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 238</p> <p>1 start over. 2 So, tomorrow, you're expecting the Iraqi 3 Government to issue travel documents for six 4 individuals who expressed that they did not want 5 to go back to Iraq, correct? 6 A Correct. 7 Q Have any Iraqi officials affirmatively 8 stated that after the travel documents are issued 9 for those six individuals, they will issue travel 10 documents for other individuals who expressed they 11 did not want to go back to Iraq? 12 A From the July 2nd meeting, the 13 understanding was -- is that we wouldn't have 14 any -- the -- that declaration, Exhibit 10, is 15 nonmaterial. And the question whether or not an 16 individual wants to go back won't effect their 17 travel document being issued. 18 Q Okay. Did an Iraqi official government 19 affirmatively make that statement? 20 A An Iraqi Government official said that. 21 Q And who was that official? 22 A It came from the ambassador -- I believe 23 it was the ambassador, or the DCM. But I'm 24 thinking it was the ambassador who was, 25 essentially, stating that we have this. We'll</p>	<p style="text-align: right;">Page 240</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 I, JOHN AUGUSTIN SCHULTZ, JR., do hereby 3 acknowledge that I have read and examined the 4 foregoing testimony and the same is a true, 5 correct, and complete transcription of the 6 testimony given by me and any corrections appear on 7 the attached errata sheet signed by me. 8 9 _____ 10 (SIGNATURE) (DATE) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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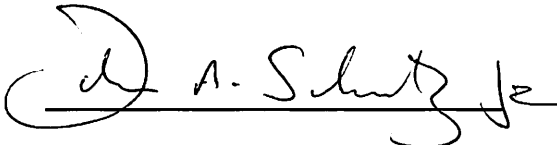
1 CERTIFICATE OF REPORTER
2 UNITED STATES OF AMERICA) ss:
3 DISTRICT OF COLUMBIA)
4 I, ANGELA K. MCCULLOUGH, RPR, the officer
5 before whom the foregoing proceedings were taken,
6 do hereby certify that the foregoing transcript is
7 a true and correct record of the proceedings; that
8 said proceedings were taken by me stenographically
9 to the best of my ability and thereafter reduced to
10 typewriting under my supervision; and that I am
11 neither counsel for, related to, nor employed by any
12 parties to this case and have no interest, financial
13 or otherwise, in its outcome.
14
15
16
17 Notary Public in and for
18 The District of Columbia
19
20 My commission expires: 01/31/2020
21
22
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1 ACKNOWLEDGMENT OF DEPONENT

2 I, JOHN AUGUSTIN SCHULTZ, JR., do hereby
3 acknowledge that I have read and examined the
4 foregoing testimony and the same is a true,
5 correct, and complete transcription of the
6 testimony given by me and any corrections appear on
7 the attached errata sheet signed by me.

8
9  Aug 13 2018
10 (SIGNATURE) (DATE)

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ERRATA SHEET

Page	Line	Change
19	9	delete "Ch Audio"
28	16	change CVP to CBP
58	21	change "Agent" to "AD"

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 - - - - - x
5 USAMA JAMIL HAMAMA, et al., :
6 PETITIONERS AND :
7 PLAINTIFFS, :
8 v. : Case No.
9 REBECCA ADDUCCI, et al., : 2:17-cv-11910
10 DEFENDANTS AND :
11 RESPONDENTS. :
12 - - - - - x

VERIFICATION OF DEPONENT

I, having read the foregoing deposition
consisting of my testimony at the aforementioned time
and place, do hereby attest to the correctness and
truthfulness of the transcript.


John Augustin Schultz, Jr.
Dated: Aug 13 2018